HB 1064 [HB 1064]

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

Removes references to the phrases "mentally retarded" and "mental retardation" from statute and replaces them with "intellectually disabled" and "intellectual disability", respectively

AN ACT to repeal sections 178.656, 197.315, 205.968, 208.215, 208.275, as enacted by senate committee substitute for house committee substitute for house bill no. 464, ninety-sixth general assembly, first regular session, 210.211, 210.516, 211.202, 211.203, 226.805, 287.812, 376.810, 475.010, 475.120, 475.355, 552.040, 563.033, 565.030, 630.003, 630.005, 630.130, 630.340, 630.705, 633.020, 633.105, 633.170, 633.401, 660.075, and 660.405, RSMo, and to enact in lieu thereof twenty-nine new sections relating to individuals with disabilities.

SECTION

A. Enacting clause.
178.656. Organization of centers, board of directors, staff — services provided — disabilities served — compliance with local laws and ordinances required.
197.315. Certificate of need granted, when — forfeiture, grounds — application for certificate, fee — certificate not required, when.
205.968. Facilities authorized — persons to be served, limitations, definitions.
208.215. Payer of last resort — liability for debt due the state, ceiling — rights of department, when, procedure, exception — report of injuries required, form, recovery of funds — recovery of medical assistance paid, when — court may adjudicate rights of parties, when.
210.211. License required — exceptions — disclosure of licensure status, when.
210.516. Exceptions to license requirement — division may not require documentation.
211.202. Mentally disordered children, evaluation — disposition — review by court.
211.203. Developmentally disabled children, evaluation — disposition — review by court.
226.805. Interstate agency committee on special transportation created — members — powers and duties.
287.812. Definitions.
376.810. Definitions for policy requirements for chemical dependency.
475.010. Definitions.
475.120. General powers and duties of guardian of the person — social service agency acting on behalf of ward, requirements.
475.355. Temporary emergency detention.
552.040. Definitions — acquittal based on mental disease or defect, commitment to state hospital required — immediate conditional release — conditional or unconditional release, when — prior commitment, authority to revoke — applications for release, notice, burden of persuasion, criteria — hearings required, when — denial, reapplication — escape, notice — additional criteria for release.
563.033. Battered spouse syndrome evidence that defendant acted in self-defense or defense of another — procedure.
565.030. Trial procedure, first degree murder.
630.003. Department created — state mental health commission — Missouri institute of mental health — transfers of powers and agencies.
630.005. Definitions.
630.130. Electroconvulsive therapy, procedure — prohibitions — attorney's fees.
630.340. Sheltered workshops and activity centers authorized — operation.
630.705. Rules for standards for facilities and programs for persons affected by mental disorder, mental illness, or developmental disability — classification of facilities and programs — certain facilities and programs not to be licensed.
633.020. Advisory council on developmental disabilities — members, number, terms, qualifications, appointment — organization, meetings — duties.
633.105. Regional centers to secure services.
633.170. Definitions.
633.401. Definitions — assessment imposed, formula — rates of payment — fund created, use of moneys — record-keeping requirements — report — appeal process — rulemaking authority — expiration date.
660.075. Intermediate care facility for intellectually disabled — certificate of authorization needed for provider agreement — exception — certificates not to be issued, when — notice to department, when.
660.405. Exceptions to licensure requirements for adult day care centers.

1. Intellectually disabled and intellectual disability, use of terms — revisor to change statutory references.
208.275. Coordinating council on special transportation, creation — members, qualifications, appointment, terms, expenses — staff — powers — duties.

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

SECTION A. ENACTING CLAUSE. — Sections 178.656, 197.315, 205.968, 208.215, 208.275, as enacted by senate committee substitute for house committee substitute for house bill no. 464, ninety-sixth general assembly, first regular session, 210.211, 210.516, 211.202, 211.203, 226.805, 287.812, 376.810, 475.010, 475.120, 475.355, 552.040, 563.033, 565.030, 630.003, 630.005, 630.130, 630.340, 630.705, 633.020, 633.105, 633.170, 633.401, 660.075, and 660.405, RSMo, are repealed and twenty-nine new sections enacted in lieu thereof, to be known as sections 178.656, 197.315, 205.968, 208.215, 210.211, 210.516, 211.202, 211.203, 226.805, 287.812, 376.810, 475.010, 475.120, 475.355, 552.040, 563.033, 565.030, 630.003, 630.005, 630.130, 630.340, 630.705, 633.020, 633.105, 633.170, 633.401, 660.075, 660.405, and 1, to read as follows:

178.656. ORGANIZATION OF CENTERS, BOARD OF DIRECTORS, STAFF — SERVICES PROVIDED — DISABILITIES SERVED — COMPLIANCE WITH LOCAL LAWS AND ORDINANCES REQUIRED. — 1. Centers for independent living shall be community-based nonresidential programs designed to promote independent living for persons with disabilities. Such centers shall be organized as nonprofit corporations with persons with disabilities comprising at least fifty-one percent of the governing board of directors.

2. At least fifty-one percent of the staff of such centers shall be persons with disabilities.

3. The center shall provide to persons with disabilities within the center's target population and their families the following independent living services:

(1) Advocacy;

(2) Independent living skills training, which shall include but shall not be limited to health care and financial management;

(3) Peer counseling;

(4) Information and referral to all inquirers including those from outside the center's target population.

4. The center may provide or make available, but is not limited to, the following:

(1) Legal services;

(2) Other counseling services, which may include nonpeer, group, and family counseling;

(3) Housing services;

(4) Equipment services;

(5) Transportation services;

(6) Social and recreational services;

(7) Educational services;

(8) Vocational services, including supported employment;

(9) Reader, interpreter, and other communication services;

(10) Attendant and homemaker services; and

(11) Electronic services.

5. To qualify as a center for independent living under the provisions of sections 178.651 to 178.658, centers shall serve at least four of the following types of disabilities:

(1) Mobility;

(2) Orthopedic;

(3) Hearing impaired or deaf;

(4) Vision impaired or blind;

(5) Neurological;

(6) **[**Mental retardation**] Intellectual disability**;

(7) Developmental;

(8) Psychiatric or mental; or

(9) Learning.

6. Centers shall make maximum use of existing resources available to persons with disabilities and shall not duplicate any existing services or programs in the geographic areas to the extent that such services or programs are available through other state resources. Such centers shall, however, provide information and referral to assist persons with disabilities in obtaining available services and shall coordinate, where feasible, the delivery of such services.

7. Centers shall operate in compliance with all applicable local laws and ordinances.

197.315. CERTIFICATE OF NEED GRANTED, WHEN — FORFEITURE, GROUNDS — APPLICATION FOR CERTIFICATE, FEE — CERTIFICATE NOT REQUIRED, WHEN. — 1. Any person who proposes to develop or offer a new institutional health service within the state must obtain a certificate of need from the committee prior to the time such services are offered.

2. Only those new institutional health services which are found by the committee to be needed shall be granted a certificate of need. Only those new institutional health services which are granted certificates of need shall be offered or developed within the state. No expenditures for new institutional health services in excess of the applicable expenditure minimum shall be made by any person unless a certificate of need has been granted.

3. After October 1, 1980, no state agency charged by statute to license or certify health care facilities shall issue a license to or certify any such facility, or distinct part of such facility, that is developed without obtaining a certificate of need.

4. If any person proposes to develop any new institutional health care service without a certificate of need as required by sections 197.300 to 197.366, the committee shall notify the attorney general, and he shall apply for an injunction or other appropriate legal action in any court of this state against that person.

5. After October 1, 1980, no agency of state government may appropriate or grant funds to or make payment of any funds to any person or health care facility which has not first obtained every certificate of need required pursuant to sections 197.300 to 197.366.

6. A certificate of need shall be issued only for the premises and persons named in the application and is not transferable except by consent of the committee.

7. Project cost increases, due to changes in the project application as approved or due to project change orders, exceeding the initial estimate by more than ten percent shall not be incurred without consent of the committee.

8. Periodic reports to the committee shall be required of any applicant who has been granted a certificate of need until the project has been completed. The committee may order the forfeiture of the certificate of need upon failure of the applicant to file any such report.

9. A certificate of need shall be subject to forfeiture for failure to incur a capital expenditure on any approved project within six months after the date of the order. The applicant may request an extension from the committee of not more than six additional months based upon substantial expenditure made.

10. Each application for a certificate of need must be accompanied by an application fee. The time of filing commences with the receipt of the application and the application fee. The application fee is one thousand dollars, or one-tenth of one percent of the total cost of the proposed project, whichever is greater. All application fees shall be deposited in the state treasury. Because of the loss of federal funds, the general assembly will appropriate funds to the Missouri health facilities review committee.

11. In determining whether a certificate of need should be granted, no consideration shall be given to the facilities or equipment of any other health care facility located more than a fifteen-mile radius from the applying facility.

12. When a nursing facility shifts from a skilled to an intermediate level of nursing care, it may return to the higher level of care if it meets the licensure requirements, without obtaining a certificate of need.

13. In no event shall a certificate of need be denied because the applicant refuses to provide abortion services or information.

14. A certificate of need shall not be required for the transfer of ownership of an existing and operational health facility in its entirety.

15. A certificate of need may be granted to a facility for an expansion, an addition of services, a new institutional service, or for a new hospital facility which provides for something less than that which was sought in the application.

16. The provisions of this section shall not apply to facilities operated by the state, and appropriation of funds to such facilities by the general assembly shall be deemed in compliance with this section, and such facilities shall be deemed to have received an appropriate certificate of need without payment of any fee or charge.

17. Notwithstanding other provisions of this section, a certificate of need may be issued after July 1, 1983, for an intermediate care facility operated exclusively for the **[**mentally retarded**]** **intellectually disabled**.

18. To assure the safe, appropriate, and cost-effective transfer of new medical technology throughout the state, a certificate of need shall not be required for the purchase and operation of research equipment that is to be used in a clinical trial that has received written approval from a duly constituted institutional review board of an accredited school of medicine or osteopathy located in Missouri to establish its safety and efficacy and does not increase the bed complement of the institution in which the equipment is to be located. After the clinical trial has been completed, a certificate of need must be obtained for continued use in such facility.

205.968. FACILITIES AUTHORIZED — PERSONS TO BE SERVED, LIMITATIONS, DEFINITIONS. — 1. As set forth in section 205.971, when a levy is approved by the voters, the governing body of any county or city not within a county of this state shall establish a board of directors. The board of directors shall be a legal entity empowered to establish and/or operate a sheltered workshop as defined in section 178.900, residence facilities, or related services, for the care or employment, or both, of persons with a disability. The facility may operate at one or more locations in the county or city not within a county. Once established, the board may, in its own name engage in and contract for any and all types of services, actions or endeavors, not contrary to the law, necessary to the successful and efficient prosecution and continuation of the business and purposes for which it is created, and may purchase, receive, lease or otherwise acquire, own, hold, improve, use, sell, convey, exchange, transfer, and otherwise dispose of real and personal property, or any interest therein, or other assets wherever situated and may incur liability and may borrow money at rates of interest up to the market rate published by the Missouri division of finance. The board shall be taken and considered as a "political subdivision" as the term is defined in section 70.600 for the purposes of sections 70.600 to 70.755.

2. Services may only be provided for those persons defined as persons with a disability in section 178.900 and those persons defined as persons with a disability in this section whether or not employed at the facility or in the community, and for persons who are disabled due to developmental disability. Persons having substantial functional limitations due to a mental illness as defined in section 630.005 shall not be eligible for services under the provisions of sections 205.968 to 205.972 except that those persons may participate in services under the provisions of sections 205.968 to 205.972. All persons otherwise eligible for facilities or services under this section shall be eligible regardless of their age; except that, individuals employed in sheltered workshops must be at least sixteen years of age. The board may, in its discretion, impose limitations with respect to individuals to be served and services to be provided. Such limitations shall be reasonable in the light of available funds, needs of the persons and community to be served as assessed by the board, and the appropriateness and efficiency of combining services to persons with various types of disabilities.

3. For the purposes of sections 205.968 to 205.972, the term

(1) "Developmental disability" shall mean either or both paragraph (a) or (b) of this subsection:

(a) A disability which is attributable to **[**mental retardation**]** **intellectual disability**, cerebral palsy, autism, epilepsy, a learning disability related to a brain dysfunction or a similar condition found by comprehensive evaluation to be closely related to such conditions, or to require habilitation similar to that required for **[**mentally retarded**]** **intellectually disabled** persons; and

a. Which originated before age eighteen; and

b. Which can be expected to continue indefinitely;

(b) A developmental disability as defined in section 630.005;

(2) "Person with a disability" shall mean a person who is lower range educable or upper range trainable **[**mentally retarded**]** **intellectually disabled** or a person who has a developmental disability.

208.215. PAYER OF LAST RESORT — LIABILITY FOR DEBT DUE THE STATE, CEILING — RIGHTS OF DEPARTMENT, WHEN, PROCEDURE, EXCEPTION — REPORT OF INJURIES REQUIRED, FORM, RECOVERY OF FUNDS — RECOVERY OF MEDICAL ASSISTANCE PAID, WHEN — COURT MAY ADJUDICATE RIGHTS OF PARTIES, WHEN. — 1. MO HealthNet is payer of last resort unless otherwise specified by law. When any person, corporation, institution, public agency or private agency is liable, either pursuant to contract or otherwise, to a participant receiving public assistance on account of personal injury to or disability or disease or benefits arising from a health insurance plan to which the participant may be entitled, payments made by the department of social services or MO HealthNet division shall be a debt due the state and recoverable from the liable party or participant for all payments made on behalf of the participant and the debt due the state shall not exceed the payments made from MO HealthNet benefits provided under sections 208.151 to 208.158 and section 208.162 and section 208.204 on behalf of the participant, minor or estate for payments on account of the injury, disease, or disability or benefits arising from a health insurance program to which the participant may be entitled. Any health benefit plan as defined in section 376.1350, third-party administrator, administrative service organization, and pharmacy benefits manager shall process and pay all properly submitted medical assistance subrogation claims or MO HealthNet subrogation claims using standard electronic transactions or paper claim forms:

(1) For a period of three years from the date services were provided or rendered; however, an entity:

(a) Shall not be required to reimburse for items or services which are not covered under MO HealthNet;

(b) Shall not deny a claim submitted by the state solely on the basis of the date of submission of the claim, the type or format of the claim form, failure to present proper documentation of coverage at the point of sale, or failure to provide prior authorization;

(c) Shall not be required to reimburse for items or services for which a claim was previously submitted to the health benefit plan, third-party administrator, administrative service organization, or pharmacy benefits manager by the health care provider or the participant and the claim was properly denied by the health benefit plan, third-party administrator, administrative service organization, or pharmacy benefits manager for procedural reasons, except for timely filing, type or format of the claim form, failure to present proper documentation of coverage at the point of sale, or failure to obtain prior authorization;

(d) Shall not be required to reimburse for items or services which are not covered under or were not covered under the plan offered by the entity against which a claim for subrogation has been filed; and

(e) Shall reimburse for items or services to the same extent that the entity would have been liable as if it had been properly billed at the point of sale, and the amount due is limited to what the entity would have paid as if it had been properly billed at the point of sale; and

(2) If any action by the state to enforce its rights with respect to such claim is commenced within six years of the state's submission of such claim.

2. The department of social services, MO HealthNet division, or its contractor may maintain an appropriate action to recover funds paid by the department of social services or MO HealthNet division or its contractor that are due under this section in the name of the state of Missouri against the person, corporation, institution, public agency, or private agency liable to the participant, minor or estate.

3. Any participant, minor, guardian, conservator, personal representative, estate, including persons entitled under section 537.080 to bring an action for wrongful death who pursues legal rights against a person, corporation, institution, public agency, or private agency liable to that participant or minor for injuries, disease or disability or benefits arising from a health insurance plan to which the participant may be entitled as outlined in subsection 1 of this section shall upon actual knowledge that the department of social services or MO HealthNet division has paid MO HealthNet benefits as defined by this chapter promptly notify the MO HealthNet division as to the pursuit of such legal rights.

4. Every applicant or participant by application assigns his right to the department of social services or MO HealthNet division of any funds recovered or expected to be recovered to the extent provided for in this section. All applicants and participants, including a person authorized by the probate code, shall cooperate with the department of social services, MO HealthNet division in identifying and providing information to assist the state in pursuing any third party who may be liable to pay for care and services available under the state's plan for MO HealthNet benefits as provided in sections 208.151 to 208.159 and sections 208.162 and 208.204. All applicants and participants shall cooperate with the agency in obtaining third-party resources due to the applicant, participant, or child for whom assistance is claimed. Failure to cooperate without good cause as determined by the department of social services, MO HealthNet division in accordance with federally prescribed standards shall render the applicant or participant ineligible for MO HealthNet benefits under sections 208.151 to 208.159 and sections 208.162 and 208.204. A participant who has notice or who has actual knowledge of the department's rights to third-party benefits who receives any third-party benefit or proceeds for a covered illness or injury is either required to pay the division within sixty days after receipt of settlement proceeds the full amount of the third-party benefits up to the total MO HealthNet benefits provided or to place the full amount of the third-party benefits in a trust account for the benefit of the division pending judicial or administrative determination of the division's right to third-party benefits.

5. Every person, corporation or partnership who acts for or on behalf of a person who is or was eligible for MO HealthNet benefits under sections 208.151 to 208.159 and sections 208.162 and 208.204 for purposes of pursuing the applicant's or participant's claim which accrued as a result of a nonoccupational or nonwork-related incident or occurrence resulting in the payment of MO HealthNet benefits shall notify the MO HealthNet division upon agreeing to assist such person and further shall notify the MO HealthNet division of any institution of a proceeding, settlement or the results of the pursuit of the claim and give thirty days' notice before any judgment, award, or settlement may be satisfied in any action or any claim by the applicant or participant to recover damages for such injuries, disease, or disability, or benefits arising from a health insurance program to which the participant may be entitled.

6. Every participant, minor, guardian, conservator, personal representative, estate, including persons entitled under section 537.080 to bring an action for wrongful death, or his attorney or legal representative shall promptly notify the MO HealthNet division of any recovery from a third party and shall immediately reimburse the department of social services, MO HealthNet division, or its contractor from the proceeds of any settlement, judgment, or other recovery in any action or claim initiated against any such third party. A judgment, award, or settlement in an action by a participant to recover damages for injuries or other third-party benefits in which the division has an interest may not be satisfied without first giving the division notice and a

reasonable opportunity to file and satisfy the claim or proceed with any action as otherwise permitted by law.

7. The department of social services, MO HealthNet division or its contractor shall have a right to recover the amount of payments made to a provider under this chapter because of an injury, disease, or disability, or benefits arising from a health insurance plan to which the participant may be entitled for which a third party is or may be liable in contract, tort or otherwise under law or equity. Upon request by the MO HealthNet division, all third-party payers shall provide the MO HealthNet division with information contained in a 270/271 Health Care Eligibility Benefits Inquiry and Response standard transaction mandated under the federal Health Insurance Portability and Accountability Act, except that third-party payers shall not include accident-only, specified disease, disability income, hospital indemnity, or other fixed indemnity insurance policies.

8. The department of social services or MO HealthNet division shall have a lien upon any moneys to be paid by any insurance company or similar business enterprise, person, corporation, institution, public agency or private agency in settlement or satisfaction of a judgment on any claim for injuries or disability or disease benefits arising from a health insurance program to which the participant may be entitled which resulted in medical expenses for which the department or MO HealthNet division made payment. This lien shall also be applicable to any moneys which may come into the possession of any attorney who is handling the claim for injuries, or disability or disease or benefits arising from a health insurance plan to which the participant may be entitled which resulted in payments made by the department or MO HealthNet division. In each case, a lien notice shall be served by certified mail or registered mail, upon the party or parties against whom the applicant or participant has a claim, demand or cause of action. The lien shall claim the charge and describe the interest the department or MO HealthNet division has in the claim, demand or cause of action. The lien shall attach to any verdict or judgment entered and to any money or property which may be recovered on account of such claim, demand, cause of action or suit from and after the time of the service of the notice.

9. On petition filed by the department, or by the participant, or by the defendant, the court, on written notice of all interested parties, may adjudicate the rights of the parties and enforce the charge. The court may approve the settlement of any claim, demand or cause of action either before or after a verdict, and nothing in this section shall be construed as requiring the actual trial or final adjudication of any claim, demand or cause of action upon which the department has charge. The court may determine what portion of the recovery shall be paid to the department against the recovery. In making this determination the court shall conduct an evidentiary hearing and shall consider competent evidence pertaining to the following matters:

(1) The amount of the charge sought to be enforced against the recovery when expressed as a percentage of the gross amount of the recovery; the amount of the charge sought to be enforced against the recovery when expressed as a percentage of the amount obtained by subtracting from the gross amount of the recovery the total attorney's fees and other costs incurred by the participant incident to the recovery; and whether the department should, as a matter of fairness and equity, bear its proportionate share of the fees and costs incurred to generate the recovery from which the charge is sought to be satisfied;

(2) The amount, if any, of the attorney's fees and other costs incurred by the participant incident to the recovery and paid by the participant up to the time of recovery, and the amount of such fees and costs remaining unpaid at the time of recovery;

(3) The total hospital, doctor and other medical expenses incurred for care and treatment of the injury to the date of recovery therefor, the portion of such expenses theretofore paid by the participant, by insurance provided by the participant, and by the department, and the amount of such previously incurred expenses which remain unpaid at the time of recovery and by whom such incurred, unpaid expenses are to be paid;

(4) Whether the recovery represents less than substantially full recompense for the injury and the hospital, doctor and other medical expenses incurred to the date of recovery for the care

and treatment of the injury, so that reduction of the charge sought to be enforced against the recovery would not likely result in a double recovery or unjust enrichment to the participant;

(5) The age of the participant and of persons dependent for support upon the participant, the nature and permanency of the participant's injuries as they affect not only the future employability and education of the participant but also the reasonably necessary and foreseeable future material, maintenance, medical rehabilitative and training needs of the participant, the cost of such reasonably necessary and foreseeable future needs, and the resources available to meet such needs and pay such costs;

(6) The realistic ability of the participant to repay in whole or in part the charge sought to be enforced against the recovery when judged in light of the factors enumerated above.

10. The burden of producing evidence sufficient to support the exercise by the court of its discretion to reduce the amount of a proven charge sought to be enforced against the recovery shall rest with the party seeking such reduction. The computerized records of the MO HealthNet division, certified by the director or his or her designee, shall be prima facie evidence of proof of moneys expended and the amount of the debt due the state.

11. The court may reduce and apportion the department's or MO HealthNet division's lien proportionate to the recovery of the claimant. The court may consider the nature and extent of the injury, economic and noneconomic loss, settlement offers, comparative negligence as it applies to the case at hand, hospital costs, physician costs, and all other appropriate costs. The department or MO HealthNet division shall pay its pro rata share of the attorney's fees based on the department's or MO HealthNet division's lien as it compares to the total settlement agreed upon. This section shall not affect the priority of an attorney's lien under section 484.140. The charges of the department or MO HealthNet division or contractor described in this section, however, shall take priority over all other liens and charges existing under the laws of the state of Missouri with the exception of the attorney's lien under such statute.

12. Whenever the department of social services or MO HealthNet division has a statutory charge under this section against a recovery for damages incurred by a participant because of its advancement of any assistance, such charge shall not be satisfied out of any recovery until the attorney's claim for fees is satisfied, regardless of whether an action based on participant's claim has been filed in court. Nothing herein shall prohibit the director from entering into a compromise agreement with any participant, after consideration of the factors in subsections 9 to 13 of this section.

13. This section shall be inapplicable to any claim, demand or cause of action arising under the workers' compensation act, chapter 287. From funds recovered pursuant to this section the federal government shall be paid a portion thereof equal to the proportionate part originally provided by the federal government to pay for MO HealthNet benefits to the participant or minor involved. The department or MO HealthNet division shall enforce TEFRA liens, 42 U.S.C. 1396p, as authorized by federal law and regulation on permanently institutionalized individuals. The department or MO HealthNet division shall have the right to enforce TEFRA liens, 42 U.S.C. 1396p, as authorized by federal law and regulation on all other institutionalized individuals. For the purposes of this subsection, "permanently institutionalized individuals" includes those people who the department or MO HealthNet division determines cannot reasonably be expected to be discharged and return home, and "property" includes the homestead and all other personal and real property in which the participant has sole legal interest or a legal interest based upon co-ownership of the property which is the result of a transfer of property for less than the fair market value within thirty months prior to the participant's entering the nursing facility. The following provisions shall apply to such liens:

(1) The lien shall be for the debt due the state for MO HealthNet benefits paid or to be paid on behalf of a participant. The amount of the lien shall be for the full amount due the state at the time the lien is enforced;

(2) The MO HealthNet division shall file for record, with the recorder of deeds of the county in which any real property of the participant is situated, a written notice of the lien. The

notice of lien shall contain the name of the participant and a description of the real estate. The recorder shall note the time of receiving such notice, and shall record and index the notice of lien in the same manner as deeds of real estate are required to be recorded and indexed. The director or the director's designee may release or discharge all or part of the lien and notice of the release shall also be filed with the recorder. The department of social services, MO HealthNet division, shall provide payment to the recorder of deeds the fees set for similar filings in connection with the filing of a lien and any other necessary documents;

(3) No such lien may be imposed against the property of any individual prior to the individual's death on account of MO HealthNet benefits paid except:

(a) In the case of the real property of an individual:

a. Who is an inpatient in a nursing facility, intermediate care facility for the **[**mentally retarded**]** **intellectually disabled**, or other medical institution, if such individual is required, as a condition of receiving services in such institution, to spend for costs of medical care all but a minimal amount of his or her income required for personal needs; and

b. With respect to whom the director of the MO HealthNet division or the director's designee determines, after notice and opportunity for hearing, that he cannot reasonably be expected to be discharged from the medical institution and to return home. The hearing, if requested, shall proceed under the provisions of chapter 536 before a hearing officer designated by the director of the MO HealthNet division; or

(b) Pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual;

(4) No lien may be imposed under paragraph (b) of subdivision (3) of this subsection on such individual's home if one or more of the following persons is lawfully residing in such home:

(a) The spouse of such individual;

(b) Such individual's child who is under twenty-one years of age, or is blind or permanently and totally disabled; or

(c) A sibling of such individual who has an equity interest in such home and who was residing in such individual's home for a period of at least one year immediately before the date of the individual's admission to the medical institution;

(5) Any lien imposed with respect to an individual pursuant to subparagraph b. of paragraph (a) of subdivision (3) of this subsection shall dissolve upon that individual's discharge from the medical institution and return home.

14. The debt due the state provided by this section is subordinate to the lien provided by section 484.130 or section 484.140, relating to an attorney's lien and to the participant's expenses of the claim against the third party.

15. Application for and acceptance of MO HealthNet benefits under this chapter shall constitute an assignment to the department of social services or MO HealthNet division of any rights to support for the purpose of medical care as determined by a court or administrative order and of any other rights to payment for medical care.

16. All participants receiving benefits as defined in this chapter shall cooperate with the state by reporting to the family support division or the MO HealthNet division, within thirty days, any occurrences where an injury to their persons or to a member of a household who receives MO HealthNet benefits is sustained, on such form or forms as provided by the family support division or MO HealthNet division.

17. If a person fails to comply with the provision of any judicial or administrative decree or temporary order requiring that person to maintain medical insurance on or be responsible for medical expenses for a dependent child, spouse, or ex-spouse, in addition to other remedies available, that person shall be liable to the state for the entire cost of the medical care provided pursuant to eligibility under any public assistance program on behalf of that dependent child, spouse, or ex-spouse during the period for which the required medical care was provided. Where a duty of support exists and no judicial or administrative decree or temporary order for support has been entered, the person owing the duty of support shall be liable to the state for the

entire cost of the medical care provided on behalf of the dependent child or spouse to whom the duty of support is owed.

18. The department director or the director's designee may compromise, settle or waive any such claim in whole or in part in the interest of the MO HealthNet program. Notwithstanding any provision in this section to the contrary, the department of social services, MO HealthNet division is not required to seek reimbursement from a liable third party on claims for which the amount it reasonably expects to recover will be less than the cost of recovery or for which recovery efforts will not be cost-effective. Cost-effectiveness is determined based on the following:

(1) Actual and legal issues of liability as may exist between the participant and the liable party;

(2) Total funds available for settlement; and

(3) An estimate of the cost to the division of pursuing its claim.

210.211. LICENSE REQUIRED — EXCEPTIONS — DISCLOSURE OF LICENSURE STATUS, WHEN. — 1. It shall be unlawful for any person to establish, maintain or operate a child-care facility for children, or to advertise or hold himself or herself out as being able to perform any of the services as defined in section 210.201, without having in effect a written license granted by the department of health and senior services; except that nothing in sections 210.203 to 210.245 shall apply to:

(1) Any person who is caring for four or fewer children. For purposes of this subdivision, children who are related by blood, marriage or adoption to such person within the third degree shall not be considered in the total number of children being cared for;

(2) Any person who has been duly appointed by a court of competent jurisdiction the guardian of the person of the child or children, or the person who has legal custody of the child or children;

(3) Any person who receives free of charge, and not as a business, for periods not exceeding ninety consecutive days, as bona fide, occasional and personal guests the child or children of personal friends of such person, and who receives custody of no other unrelated child or children;

(4) Any graded boarding school, summer camp, hospital, sanitarium or home which is conducted in good faith primarily to provide education, recreation, medical treatment, or nursing or convalescent care for children;

(5) Any child-care facility maintained or operated under the exclusive control of a religious organization. When a nonreligious organization, having as its principal purpose the provision of child-care services, enters into an arrangement with a religious organization for the maintenance or operation of a child-care facility, the facility is not under the exclusive control of the religious organization;

(6) Any residential facility or day program licensed by the department of mental health pursuant to sections 630.705 to 630.760 which provides care, treatment and habilitation exclusively to children who have a primary diagnosis of mental disorder, mental illness, **[**mental retardation**]** **intellectual disability** or developmental disability, as defined in section 630.005; and

(7) Any nursery school.

2. Notwithstanding the provisions of subsection 1 of this section, no child-care facility shall be exempt from licensure if such facility receives any state or federal funds for providing care for children, except for federal funds for those programs which meet the requirements for participation in the Child and Adult Care Food Program pursuant to 42 U.S.C. 1766. Grants to parents for child care pursuant to sections 210.201 to 210.257 shall not be construed to be funds received by a person or facility listed in subdivisions (1) and (5) of subsection 1 of this section.

3. Any child care facility not exempt from licensure shall disclose the licensure status of the facility to the parents or guardians of children for which the facility provides care. No child care

facility exempt from licensure shall represent to any parent or guardian of children for which the facility provides care that the facility is licensed when such facility is in fact not licensed.

210.516. EXCEPTIONS TO LICENSE REQUIREMENT — DIVISION MAY NOT REQUIRE DOCUMENTATION. — 1. It shall be unlawful for any person to establish, maintain, or operate a foster home, residential care facility, or child placing agency, or to advertise or hold himself out as being able to perform any of the services as defined in sections 210.481 to 210.536, without having in full force and effect a license issued by the division; provided, however, that nothing in sections 210.481 to 210.536 shall apply to:

(1) Any residential care facility operated by a person in which the care provided is in conjunction with an educational program for which a tuition is charged and completion of the program results in meeting requirements for a diploma recognized by the state department of elementary and secondary education;

(2) Any camp, hospital, sanitarium, or home which is conducted in good faith primarily to provide recreation, medical treatment, or nursing or convalescent care for children;

(3) Any person who receives free of charge, and not as a business, for periods of time not exceeding ninety consecutive days, the child of personal friends of such person as an occasional and personal guest, and who receives custody of no other unrelated child;

(4) Any child placing agency operated by the department of mental health or any foster home or residential care facility operated or licensed by the department of mental health under sections 630.705 to 630.760 which provides care, treatment, and habilitation exclusively to children who have a primary diagnosis of mental disorder, mental illness, **[**mental retardation**]** **intellectual disability** or developmental disability, as defined in section 630.005;

(5) Any foster home arrangement established and operated by any well-known religious order or church and any residential care facility or child placement agency operated by such organization; or

(6) Any institution or agency maintained or operated by the state, city or county.

2. The division shall not require any foster home, residential care facility, or child placing agency which believes itself exempt from licensure as provided in subsection 1 of this section to submit any documentation in support of the claimed exemption; however said foster home, residential care facility, or child placing agency is not precluded from furnishing such documentation if it chooses to do so.

211.202. MENTALLY DISORDERED CHILDREN, EVALUATION — DISPOSITION — REVIEW BY COURT. — 1. If a child under the jurisdiction of the juvenile court appears to be mentally disordered, other than intellectually disabled or developmentally disabled, the court, on its own motion or on the motion or petition of any interested party, may order the department of mental health to evaluate the child.

2. A mental health facility designated by the department of mental health shall perform within twenty days an evaluation of the child, on an outpatient basis if practicable, for the purpose of determining whether inpatient admission is appropriate because the following criteria are met:

(1) The child has a mental disorder other than **[**mental retardation**]** **intellectual disability** or developmental disability, as all these terms are defined in chapter 630;

(2) The child requires inpatient care and treatment for the protection of himself or others;

(3) A mental health facility offers a program suitable for the child's needs;

(4) A mental health facility is the least restrictive environment as the term "least restrictive environment" is defined in chapter 630.

3. If the facility determines, as a result of the evaluation, that it is appropriate to admit the child as an inpatient, the head of the mental health facility, or his designee, shall recommend the child for admission, subject to the availability of suitable accommodations, and send the juvenile court notice of the recommendation and a copy of the evaluation. Should the department

evaluation recommend inpatient care, the child, his parent, guardian or counsel shall have the right to request an independent evaluation of the child. Within twenty days of the receipt of the notice and evaluation by the facility, or within twenty days of the receipt of the notice and evaluation from the independent examiner, the court may order, pursuant to a hearing, the child committed to the custody of the department of mental health for inpatient care and treatment, or may otherwise dispose of the matter; except, that no child shall be committed to a mental health facility under this section for other than care and treatment.

4. If the facility determines, as a result of the evaluation, that inpatient admission is not appropriate, the head of the mental health facility, or his designee, shall not recommend the child for admission as an inpatient. The head of the facility, or his designee, shall send to the court a notice that inpatient admission is not appropriate, along with a copy of the evaluation, within twenty days of completing the evaluation. If the child was evaluated on an inpatient basis, the juvenile court shall transfer the child from the department of mental health within twenty days of receipt of the notice and evaluation or set the matter for hearing within twenty days, giving notice of the hearing to the director of the facility as well as all others required by law.

5. If at any time the facility determines that it is no longer appropriate to provide inpatient care and treatment for the child committed by the juvenile court, but that such child appears to qualify for placement under section 630.610, the head of the facility shall refer such child for placement. Subject to the availability of an appropriate placement, the department of mental health shall place any child who qualifies for placement under section 630.610. If no appropriate placement is available, the department of mental health shall discharge the child or make such other arrangements as it may deem appropriate and consistent with the child's welfare and safety. Notice of the placement or discharge shall be sent to the juvenile court which first ordered the child's detention.

6. The committing juvenile court shall conduct an annual review of the child's need for continued placement in the mental health facility.

211.203. DEVELOPMENTALLY DISABLED CHILDREN, EVALUATION — DISPOSITION — REVIEW BY COURT. — 1. If a child under the jurisdiction of the juvenile court appears to be **[**mentally retarded**]** **intellectually disabled** or developmentally disabled, as these terms are defined in chapter 630, the court, on its own motion or on the motion or petition of any interested party, may order the department of mental health to evaluate the child.

2. A regional center designated by the department of mental health shall perform within twenty days a comprehensive evaluation, as defined in chapter 633, on an outpatient basis if practicable, for the purpose of determining the appropriateness of a referral to a developmental disability facility operated or funded by the department of mental health. If it is determined by the regional center, as a result of the evaluation, to be appropriate to refer such child to a department developmental disability facility under section 633.120 or a private developmental disability facility under section 630.610, the regional center shall refer the evaluation to the appropriate developmental disability facility.

3. If, as a result of reviewing the evaluation, the head of the developmental disability facility, or his designee, determines that it is appropriate to admit such child as a resident, the head of the developmental disability facility, or his or her designee, shall recommend the child for admission, subject to availability of suitable accommodations. The head of the regional center, or his designee, shall send the juvenile court notice of the recommendation for admission by the developmental disability facility and a copy of the evaluation. Should the department evaluation recommend residential care and habilitation, the child, his parent, guardian or counsel shall have the right to request an independent evaluation of the child. Within twenty days of receipt of the notice and evaluation from the facility, or within twenty days of the receipt of the notice and evaluation from the independent examiner, the court may order, pursuant to a hearing, the child committed to the custody of the department of mental health for residential care and habilitation, or may otherwise dispose of the matter; except, that no child shall be committed to

the department of mental health for other than residential care and habilitation. If the department proposes placement at, or transferring the child to, a department facility other than that designated in the order of the juvenile court, the department shall conduct a due process hearing within six days of such placement or transfer during which the head of the initiating facility shall have the burden to show that the placement or transfer is appropriate for the medical needs of the child. The head of the facility shall notify the court ordering detention or commitment and the child's last known attorney of record of such placement or transfer.

4. If, as a result of the evaluation, the regional center determines that it is not appropriate to admit such child as a resident in a developmental disability facility, the regional center shall send a notice to the court that it is inappropriate to admit such child, along with a copy of the evaluation. If the child was evaluated on a residential basis, the juvenile court shall transfer the child from the department within five days of receiving the notice and evaluation or set the matter for hearing within twenty days, giving notice of the hearing to the director of the facility as well as all others required by law.

5. If at any time the developmental disability facility determines that it is no longer appropriate to provide residential habilitation for the child committed by the juvenile court, but that such child appears to qualify for placement under section 630.610, the head of the facility shall refer such child for placement. Subject to the availability of an appropriate placement, the department shall place any child who qualifies for placement under section 630.610. If no appropriate placement is available, the department shall discharge the child or make such other arrangements as it may deem appropriate and consistent with the child's welfare and safety. Notice of the placement or discharge shall be sent to the juvenile court which first ordered the child's detention.

6. The committing court shall conduct an annual review of the child's need for continued placement at the developmental disability facility.

226.805. INTERSTATE AGENCY COMMITTEE ON SPECIAL TRANSPORTATION CREATED — MEMBERS — POWERS AND DUTIES. — 1. There is hereby created the "Interagency Committee on Special Transportation" within the Missouri department of transportation. The members of the committee shall be: The assistant for transportation of the Missouri department of transportation, or his designee; the assistant commissioner of the department of elementary and secondary education, responsible for special transportation, or his designee; the director of the division of aging of the department of social services, or his designee; the director of the division of family services of the department of social services, or his designee; the **[**deputy**]** director **[**for mental retardation/developmental**] of the division of developmental** disabilities and the deputy director for administration of the department of mental health, or their designees; the executive secretary of the governor's committee on the employment of the handicapped; and other state agency representatives as the governor deems appropriate for temporary or permanent membership by executive order.

2. The interagency committee on special transportation shall:

(1) Jointly designate substate special transportation planning and service areas within the state;

(2) Jointly designate a special transportation planning council for each special transportation planning and service area. The special transportation planning council shall be composed of the area agency on aging, the regional center for developmental disabilities, the regional planning commission and other local organizations responsible for funding and organizing special transportation designated by the interagency committee. The special transportation planning councils will oversee and approve the preparation of special transportation plans. Staff support for the special transportation planning councils will be provided by the regional planning commissions serving the area with funds provided by the department of transportation for this purpose;

(3) Jointly establish a uniform planning format and content;

(4) Individually and jointly establish uniform budgeting and reporting standards for all transportation funds administered by the member agencies. These standards shall be adopted into the administrative rules of each member agency;

(5) Individually establish annual allocations of funds to support special transportation services in each of the designated planning and service areas;

(6) Individually and jointly adopt a five-year planning budget for the capital and operating needs of special transportation in Missouri;

(7) Individually develop administrative and adopt rules for the substate division of special transportation funds;

(8) Jointly review and accept annual capital and operating plans for the designated special transportation planning and service areas;

(9) Individually submit proposed expenditures to the interagency committee for review as to conformity with the areas special transportation plans. All expenditures are to be made in accordance with the plans or by special action of the interagency committee.

3. The assistant for transportation of the Missouri department of transportation shall serve as chairman of the committee.

4. Staff for the committee shall be provided by the Missouri department of transportation.

5. The committee shall meet on such a schedule and carry out its duties in such a way as to discharge its responsibilities over special transportation expenditures made for the state fiscal year beginning July 1, 1989, and all subsequent years.

287.812. DEFINITIONS. — As used in sections 287.812 to 287.855, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Administrative law judge", any person appointed pursuant to section 287.610 or section 621.015, or any person who hereafter may have by law all of the powers now vested by law in administrative law judges appointed under the provisions of the workers' compensation law;

(2) "Beneficiary", a surviving spouse married to the deceased administrative law judge or legal advisor of the division of workers' compensation continuously for a period of at least two years immediately preceding the administrative law judge's or legal advisor's death and also on the day of the last termination of such person's employment as an administrative law judge or legal advisor for the division of workers' compensation, or if there is no surviving spouse eligible to receive benefits, any minor child of the deceased administrative law judge or legal advisor, or any child of the deceased administrative law judge or legal advisor who, regardless of age, is unable to support himself because of **[**mental retardation**]** **intellectual disability**, disease or disability, or any physical handicap or disability, who shall share in the benefits on an equal basis with all other beneficiaries;

(3) "Benefit", a series of equal monthly payments payable during the life of an administrative law judge or legal advisor of the division of workers' compensation retiring pursuant to the provisions of sections 287.812 to 287.855 or payable to a beneficiary as provided in sections 287.812 to 287.850;

(4) "Board", the board of trustees of the Missouri state employees' retirement system;

(5) "Chief legal counsel", any person appointed or employed under section 287.615 to serve in the capacity of legal counsel to the division;

(6) "Division", the division of workers' compensation of the state of Missouri;

(7) "Legal advisor", any person appointed or employed pursuant to section 287.600, 287.615, or 287.616 to serve in the capacity as a legal advisor or an associate administrative law judge and any person appointed pursuant to section 286.010 or pursuant to section 295.030, and any attorney or legal counsel appointed or employed pursuant to section 286.070;

(8) "Salary", the total annual compensation paid for personal services as an administrative law judge or legal advisor, or both, of the division of workers' compensation by the state or any of its political subdivisions.

376.810. DEFINITIONS FOR POLICY REQUIREMENTS FOR CHEMICAL DEPENDENCY. — As used in sections 376.810 to 376.814, the following terms mean: (1) "Chemical dependency", the psychological or physiological dependence upon and abuse of drugs, including alcohol, characterized by drug tolerance or withdrawal and impairment of social or occupational role functioning or both; (2) "Community mental health center", a legal entity certified by the department of mental health or accredited by a nationally recognized organization, through which a comprehensive array of mental health services are provided to individuals; (3) "Day program services", a structured, intensive day or evening treatment or partial hospitalization program, certified by the department of mental health or accredited by a nationally recognized organization; (4) "Episode", a distinct course of chemical dependency treatment separated by at least thirty days without treatment; (5) "Health insurance policy", all health insurance policies or contracts that are individually underwritten or provide such coverage for specific individuals and members of their families, which provide for hospital treatment. For the purposes of subsection 2 of section 376.811, "health insurance policy" shall also include any individually underwritten coverage issued by a health maintenance organization. The provisions of sections 376.810 to 376.814 shall not apply to policies which provide coverage for a specified disease only, other than for mental illness or chemical dependency; (6) "Licensed professional", a licensed physician specializing in the treatment of mental illness, a licensed psychologist, a licensed clinical social worker or a licensed professional counselor. Only prescription rights under this act shall apply to medical physicians and doctors of osteopathy; (7) "Managed care", the determination of availability of coverage under a health insurance policy through the use of clinical standards to determine the medical necessity of an admission or treatment, and the level and type of treatment, and appropriate setting for treatment, with required authorization on a prospective, concurrent or retrospective basis, sometimes involving case management; (8) "Medical detoxification", hospital inpatient or residential medical care to ameliorate acute medical conditions associated with chemical dependency; (9) "Nonresidential treatment program", a program certified by the department of mental health involving structured, intensive treatment in a nonresidential setting;

(10) "Recognized mental illness", those conditions classified as "mental disorders" in the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders, but shall not include **[**mental retardation**] intellectual disability**;

(11) "Residential treatment program", a program certified by the department of mental health involving residential care and structured, intensive treatment;

(12) "Social setting detoxification", a program in a supportive nonhospital setting designed to achieve detoxification, without the use of drugs or other medical intervention, to establish a plan of treatment and provide for medical referral when necessary.

475.010. DEFINITIONS. — When used in this chapter, unless otherwise apparent from the context, the following terms mean:

(1) "Adult", a person who has reached the age of eighteen years;

(2) "Claims", liabilities of the protectee arising in contract, in tort or otherwise, before or after the appointment of a conservator, and liabilities of the estate which arise at or after the adjudication of disability or after the appointment of a conservator of the estate, including expenses of the adjudication and of administration. The term does not include demands or disputes regarding title of the protectee to specific assets alleged to be included in the estate;

(3) "Conservator", one appointed by a court to have the care and custody of the estate of a minor or a disabled person. A "limited conservator" is one whose duties or powers are limited. The term "conservator", as used in this chapter, includes limited conservator unless otherwise specified or apparent from the context;

(4) "Custodial parent", the parent of a minor who has been awarded sole or joint physical custody of such minor, or the parent of an incapacitated person who has been appointed as guardian of such person, by an order or judgment of a court of this state or of another state or

territory of the United States, or if there is no such order or judgment, the parent with whom the minor or incapacitated person primarily resides;

(5) "Disabled" or "disabled person", one who is:

(a) Unable by reason of any physical or mental condition to receive and evaluate information or to communicate decisions to such an extent that the person lacks ability to manage his financial resources; or

(b) The term "disabled" or "disabled person", as used in this chapter includes the terms partially disabled or partially disabled person unless otherwise specified or apparent from the context;

(6) "Eligible person" or "qualified person", a natural person, social service agency, corporation or national or state banking organization qualified to act as guardian of the person or conservator of the estate pursuant to the provisions of section 475.055;

(7) "Guardian", one appointed by a court to have the care and custody of the person of a minor or of an incapacitated person. A "limited guardian" is one whose duties or powers are limited. A "standby guardian" is one approved by the court to temporarily assume the duties of guardian of a minor or of an incapacitated person under section 475.046. The term "guardian", as used in this chapter, includes limited guardian and standby guardian unless otherwise specified or apparent from the context;

(8) "Guardian ad litem", one appointed by a court, in which particular litigation is pending, to represent a minor, an incapacitated person, a disabled person, or an unborn person in that particular proceeding or as otherwise specified in this code;

(9) "Habilitation", instruction, training, guidance or treatment designed to enable and encourage a **[**mentally retarded**]** **intellectually disabled** or developmentally disabled person as defined in chapter 630 to acquire and maintain those life skills needed to cope more effectively with the demands of his or her own person and of his or her environment;

(10) "Incapacitated person", one who is unable by reason of any physical or mental condition to receive and evaluate information or to communicate decisions to such an extent that he or she lacks capacity to meet essential requirements for food, clothing, shelter, safety or other care such that serious physical injury, illness, or disease is likely to occur. The term "incapacitated person" as used in this chapter includes the term partially incapacitated person unless otherwise specified or apparent from the context;

(11) "Least restrictive environment", that there shall be imposed on the personal liberty of the ward only such restraint as is necessary to prevent the ward from injuring himself or herself and others and to provide the ward with such care, habilitation and treatment as are appropriate for the ward considering his or her physical and mental condition and financial means;

(12) "Manage financial resources", either those actions necessary to obtain, administer, and dispose of real and personal property, intangible property, business property, benefits, income or any assets, or those actions necessary to prevent waste, loss or dissipation of property, or those actions necessary to provide for the care and support of such person or anyone legally dependent upon such person by a person of ordinary skills and intelligence commensurate with his or her training and education;

(13) "Minor", any person who is under the age of eighteen years;

(14) "Parent", the biological or adoptive mother or father of a child whose parental rights have not been terminated under chapter 211, including:

(a) A person registered as the father of the child by reason of an unrevoked notice of intent to claim paternity under section 192.016;

(b) A person who has acknowledged paternity of the child and has not rescinded that acknowledgment under section 193.215; and

(c) A person presumed to be the natural father of the child under section 210.822;

(15) "Partially disabled person", one who is unable by reason of any physical or mental condition to receive and evaluate information or to communicate decisions to such an extent that such person lacks capacity to manage, in part, his or her financial resources;

(16) "Partially incapacitated person", one who is unable by reason of any physical or mental condition to receive and evaluate information or to communicate decisions to the extent that such person lacks capacity to meet, in part, essential requirements for food, clothing, shelter, safety, or other care without court-ordered assistance;

(17) "Protectee", a person for whose estate a conservator or limited conservator has been appointed or with respect to whose estate a transaction has been authorized by the court under section 475.092 without appointment of a conservator or limited conservator;

(18) "Seriously ill", a significant likelihood that a person will become incapacitated or die within twelve months;

(19) "Social service agency", a charitable organization organized and incorporated as a not-for-profit corporation under the laws of this state and which qualifies as an exempt organization within the meaning of section 501(c)(3), or any successor provision thereto of the federal Internal Revenue Code;

(20) "Standby guardian", one who is authorized to have the temporary care and custody of the person of a minor or of an incapacitated person under the provisions of section 475.046;

(21) "Treatment", the prevention, amelioration or cure of a person's physical and mental illnesses or incapacities;

(22) "Ward", a minor or an incapacitated person for whom a guardian, limited guardian, or standby guardian has been appointed.

475.120. GENERAL POWERS AND DUTIES OF GUARDIAN OF THE PERSON — SOCIAL SERVICE AGENCY ACTING ON BEHALF OF WARD, REQUIREMENTS. — 1. The guardian of the person of a minor shall be entitled to the custody and control of the ward and shall provide for the ward's education, support and maintenance.

2. A guardian or limited guardian of an incapacitated person shall act in the best interest of the ward. A limited guardian of an incapacitated person shall have the powers and duties enumerated by the court in the adjudication order or any later modifying order.

3. The general powers and duties of a guardian of an incapacitated person shall be to take charge of the person of the ward and to provide for the ward's care, treatment, habilitation, education, support and maintenance; and the powers and duties shall include, but not be limited to, the following:

(1) Assure that the ward resides in the best and least restrictive setting reasonably available;

(2) Assure that the ward receives medical care and other services that are needed;

(3) Promote and protect the care, comfort, safety, health, and welfare of the ward;

(4) Provide required consents on behalf of the ward;

(5) To exercise all powers and discharge all duties necessary or proper to implement the provisions of this section.

4. A guardian of an adult or minor ward is not obligated by virtue of such guardian's appointment to use the guardian's own financial resources for the support of the ward. If the ward's estate and available public benefits are inadequate for the proper care of the ward, the guardian or conservator may apply to the county commission pursuant to section 475.370.

5. No guardian of the person shall have authority to seek admission of the guardian's ward to a mental health or **[**mental retardation**]** **intellectual disability** facility for more than thirty days for any purpose without court order except as otherwise provided by law.

6. Only the director or chief administrative officer of a social service agency serving as guardian of an incapacitated person, or such person's designee, is legally authorized to act on behalf of the ward.

7. A social service agency serving as guardian of an incapacitated person shall notify the court within fifteen days after any change in the identity of the professional individual who has primary responsibility for providing guardianship services to the incapacitated person.

8. Any social service agency serving as guardian may not provide other services to the ward.

475.355. TEMPORARY EMERGENCY DETENTION. — 1. If, upon the filing of a petition for the adjudication of incapacity or disability it appears that the respondent, by reason of a mental disorder or intellectual disability or developmental disability, presents a likelihood of serious physical harm to himself or others, he may be detained in accordance with the provisions of chapter 632 if suffering from a mental disorder, or chapter 633 if the person has an intellectual or developmental disability, pending a hearing on the petition for adjudication.

2. As used in this section, the terms "mental disorder" and **[**"mental retardation"**]** **"intellectual disability"** shall be as defined in chapter 630 and the term "likelihood of serious physical harm to himself or others" shall be as **the term "likelihood of serious harm" is** defined in chapter 632.

3. The procedure for obtaining an order of temporary emergency detention shall be as prescribed by chapter 632, relating to prehearing detention of mentally disordered persons.

552.040. DEFINITIONS — ACQUITTAL BASED ON MENTAL DISEASE OR DEFECT, COMMITMENT TO STATE HOSPITAL REQUIRED — IMMEDIATE CONDITIONAL RELEASE — CONDITIONAL OR UNCONDITIONAL RELEASE, WHEN — PRIOR COMMITMENT, AUTHORITY TO REVOKE — APPLICATIONS FOR RELEASE, NOTICE, BURDEN OF PERSUASION, CRITERIA — HEARINGS REQUIRED, WHEN — DENIAL, REAPPLICATION — ESCAPE, NOTICE — ADDITIONAL CRITERIA FOR RELEASE. — 1. For the purposes of this section, the following words mean:

(1) "Prosecutor of the jurisdiction", the prosecuting attorney in a county or the circuit attorney of a city not within a county;

(2) "Secure facility", a state mental health facility, state developmental disability facility, private facility under contract with the department of mental health, or a section within any of these facilities, in which persons committed to the department of mental health pursuant to this chapter, shall not be permitted to move about the facility or section of the facility, nor to leave the facility or section of the facility, without approval by the head of the facility or such head's designee and adequate supervision consistent with the safety of the public and the person's treatment, habilitation or rehabilitation plan;

(3) "Tried and acquitted" includes both pleas of mental disease or defect excluding responsibility that are accepted by the court and acquittals on the ground of mental disease or defect excluding responsibility following the proceedings set forth in section 552.030.

2. When an accused is tried and acquitted on the ground of mental disease or defect excluding responsibility, the court shall order such person committed to the director of the department of mental health for custody. The court shall also order custody and care in a state mental health or **[**retardation**]** **intellectual disability** facility unless an immediate conditional release is granted pursuant to this section. If the accused has not been charged with a dangerous felony as defined in section 556.061, or with murder in the first degree pursuant to section 565.020, or sexual assault pursuant to section 566.040, or the attempts thereof, and the examination contains an opinion that the accused should be immediately conditionally released to the community by the court, the court shall hold a hearing to determine if an immediate conditional release is appropriate pursuant to the procedures for conditional release set out in subsections 10 to 14 of this section. Prior to the hearing, the court shall direct the director of the department of mental health, or the director's designee, to have the accused examined to determine conditions of confinement in accordance with subsection 4 of section 552.020. The provisions of subsection 16 of this section shall be applicable to defendants granted an immediate conditional release and the director shall honor the immediate conditional release as granted by the court. If the court determines that an immediate conditional release is warranted, the court shall order the person committed to the director of the department of mental health before ordering such a release. The court granting the immediate conditional release shall retain jurisdiction over the case for the duration of the conditional release. This shall not limit the authority of the director of the department of mental health or the director's designee to revoke

the conditional release or the trial release of any committed person pursuant to subsection 17 of this section. If the accused is committed to a mental health or developmental disability facility, the director of the department of mental health, or the director's designee, shall determine the time, place and conditions of confinement.

3. The provisions of sections 630.110, 630.115, 630.130, 630.133, 630.135, 630.140, 630.145, 630.150, 630.180, 630.183, 630.192, 630.194, 630.196, 630.198, 630.805, 632.370, 632.395, and 632.435 shall apply to persons committed pursuant to subsection 2 of this section. If the department does not have a treatment or rehabilitation program for a mental disease or defect of an individual, that fact may not be the basis for a release from commitment. Notwithstanding any other provision of law to the contrary, no person committed to the department of mental health who has been tried and acquitted by reason of mental disease or defect as provided in section 552.030 shall be conditionally or unconditionally released unless the procedures set out in this section are followed. Upon request by an indigent committed person, the appropriate court may appoint the office of the public defender to represent such person in any conditional or unconditional release proceeding under this section.

4. Notwithstanding section 630.115, any person committed pursuant to subsection 2 of this section shall be kept in a secure facility until such time as a court of competent jurisdiction enters an order granting a conditional or unconditional release to a nonsecure facility.

5. The committed person or the head of the facility where the person is committed may file an application in the court that committed the person seeking an order releasing the committed person unconditionally; except that any person who has been denied an application for a conditional release pursuant to subsection 13 of this section shall not be eligible to file for an unconditional release until the expiration of one year from such denial. In the case of a person who was immediately conditionally released after being committed to the department of mental health, the released person or the director of the department of mental health, or the director's designee, may file an application in the same court that released the committed person seeking an order releasing the committed person unconditionally. Copies of the application shall be served personally or by certified mail upon the head of the facility unless the head of the facility files the application, the committed person unless the committed person files the application, or unless the committed person was immediately conditionally released, the director of the department of mental health, and the prosecutor of the jurisdiction where the committed person was tried and acquitted. Any party objecting to the proposed release must do so in writing within thirty days after service. Within a reasonable period of time after any written objection is filed, which period shall not exceed sixty days unless otherwise agreed upon by the parties, the court shall hold a hearing upon notice to the committed person, the head of the facility, if necessary, the director of the department of mental health, and the prosecutor of the jurisdiction where the person was tried. Prior to the hearing any of the parties, upon written application, shall be entitled to an examination of the committed person, by a psychiatrist or psychologist, as defined in section 632.005, or a physician with a minimum of one year training or experience in providing treatment or services to **[**mentally retarded**] intellectually disabled** or mentally ill individuals of its own choosing and at its expense. The report of the mental condition of the committed person shall accompany the application. By agreement of all parties to the proceeding any report of the mental condition of the committed person which may accompany the application for release or which is filed in objection thereto may be received by evidence, but the party contesting any opinion therein shall have the right to summon and to cross-examine the examiner who rendered such opinion and to offer evidence upon the issue.

6. By agreement of all the parties and leave of court, the hearing may be waived, in which case an order granting an unconditional release shall be entered in accordance with subsection 8 of this section.

7. At a hearing to determine if the committed person should be unconditionally released, the court shall consider the following factors in addition to any other relevant evidence:

(1) Whether or not the committed person presently has a mental disease or defect;

(2) The nature of the offense for which the committed person was committed;

(3) The committed person's behavior while confined in a mental health facility;

(4) The elapsed time between the hearing and the last reported unlawful or dangerous act;

(5) Whether the person has had conditional releases without incident; and

(6) Whether the determination that the committed person is not dangerous to himself or others is dependent on the person's taking drugs, medicine or narcotics. The burden of persuasion for any person committed to a mental health facility under the provisions of this section upon acquittal on the grounds of mental disease or defect excluding responsibility shall be on the party seeking unconditional release to prove by clear and convincing evidence that the person for whom unconditional release is sought does not have, and in the reasonable future is not likely to have, a mental disease or defect rendering the person dangerous to the safety of himself or others.

8. The court shall enter an order either denying the application for unconditional release or granting an unconditional release. An order denying the application shall be without prejudice to the filing of another application after the expiration of one year from the denial of the last application.

9. No committed person shall be unconditionally released unless it is determined through the procedures in this section that the person does not have, and in the reasonable future is not likely to have, a mental disease or defect rendering the person dangerous to the safety of himself or others.

10. The committed person or the head of the facility where the person is committed may file an application in the court having probate jurisdiction over the facility where the person is detained for a hearing to determine whether the committed person shall be released conditionally. In the case of a person committed to a mental health facility upon acquittal on the grounds of mental disease or defect excluding responsibility for a dangerous felony as defined in section 556.061, murder in the first degree pursuant to section 565.020, or sexual assault pursuant to section 566.040, any such application shall be filed in the court that committed the person. In such cases, jurisdiction over the application for conditional release shall be in the committing court. In the case of a person who was immediately conditionally released after being committed to the department of mental health, the released person or the director of the department of mental health, or the director's designee, may file an application in the same court that released the person seeking to amend or modify the existing release. The procedures for application for unconditional releases set out in subsection 5 of this section shall apply, with the following additional requirements:

(1) A copy of the application shall also be served upon the prosecutor of the jurisdiction where the person is being detained, unless the released person was immediately conditionally released after being committed to the department of mental health, or unless the application was required to be filed in the court that committed the person in which case a copy of the application shall be served upon the prosecutor of the jurisdiction where the person was tried and acquitted and the prosecutor of the jurisdiction into which the committed person is to be released;

(2) The prosecutor of the jurisdiction where the person was tried and acquitted shall use their best efforts to notify the victims of dangerous felonies. Notification by the appropriate person or agency by certified mail to the most current address provided by the victim shall constitute compliance with the victim notification requirement of this section;

(3) The application shall specify the conditions and duration of the proposed release;

(4) The prosecutor of the jurisdiction where the person is being detained shall represent the public safety interest at the hearing unless the prosecutor of the jurisdiction where the person was tried and acquitted decides to appear to represent the public safety interest. If the application for release was required to be filed in the committing court, the prosecutor of the jurisdiction where the person was tried and acquitted shall represent the public safety interest. In the case of a person who was immediately conditionally released after being committed to the department of

mental health, the prosecutor of the jurisdiction where the person was tried and acquitted shall appear and represent the public safety interest.

11. By agreement of all the parties, the hearing may be waived, in which case an order granting a conditional release, stating the conditions and duration agreed upon by all the parties and the court, shall be entered in accordance with subsection 13 of this section.

12. At a hearing to determine if the committed person should be conditionally released, the court shall consider the following factors in addition to any other relevant evidence:

(1) The nature of the offense for which the committed person was committed;

(2) The person's behavior while confined in a mental health facility;

(3) The elapsed time between the hearing and the last reported unlawful or dangerous act;

(4) The nature of the person's proposed release plan;

(5) The presence or absence in the community of family or others willing to take responsibility to help the defendant adhere to the conditions of the release; and

(6) Whether the person has had previous conditional releases without incident. The burden of persuasion for any person committed to a mental health facility under the provisions of this section upon acquittal on the grounds of mental disease or defect excluding responsibility shall be on the party seeking release to prove by clear and convincing evidence that the person for whom release is sought is not likely to be dangerous to others while on conditional release.

13. The court shall enter an order either denying the application for a conditional release or granting conditional release. An order denying the application shall be without prejudice to the filing of another application after the expiration of one year from the denial of the last application.

14. No committed person shall be conditionally released until it is determined that the committed person is not likely to be dangerous to others while on conditional release.

15. If, in the opinion of the head of a facility where a committed person is being detained, that person can be released without danger to others, that person may be released from the facility for a trial release of up to ninety-six hours under the following procedure:

(1) The head of the facility where the person is committed shall notify the prosecutor of the jurisdiction where the committed person was tried and acquitted and the prosecutor of the jurisdiction into which the committed person is to be released at least thirty days before the date of the proposed trial release;

(2) The notice shall specify the conditions and duration of the release;

(3) If no prosecutor to whom notice is required objects to the trial release, the committed person shall be released according to conditions and duration specified in the notice;

(4) If any prosecutor objects to the trial release, the head of the facility may file an application with the court having probate jurisdiction over the facility where the person is detained for a hearing under the procedures set out in subsections 5 and 10 of this section with the following additional requirements:

(a) A copy of the application shall also be served upon the prosecutor of the jurisdiction into which the committed person is to be released; and

(b) The prosecutor or prosecutors who objected to the trial release shall represent the public safety interest at the hearing; and

(5) The release criteria of subsections 12 to 14 of this section shall apply at such a hearing.

16. The department shall provide or shall arrange for follow-up care and monitoring for all persons conditionally released under this section and shall make or arrange for reviews and visits with the client at least monthly, or more frequently as set out in the release plan, and whether the client is receiving care, treatment, habilitation or rehabilitation consistent with his needs, condition and public safety. The department shall identify the facilities, programs or specialized services operated or funded by the department which shall provide necessary levels of follow-up care, aftercare, rehabilitation or treatment to the persons in geographical areas where they are released.

17. The director of the department of mental health, or the director's designee, may revoke the conditional release or the trial release and request the return of the committed person if such director or coordinator has reasonable cause to believe that the person has violated the conditions of such release. If requested to do so by the director or coordinator, a peace officer of a jurisdiction in which a patient on conditional release is found shall apprehend and return such patient to the facility. No peace officer responsible for apprehending and returning the committed person to the facility upon the request of the director or coordinator shall be civilly liable for apprehending or transporting such patient to the facility so long as such duties were performed in good faith and without negligence. If a person on conditional release is returned to a facility under the provisions of this subsection, a hearing shall be held within ninety-six hours, excluding Saturdays, Sundays and state holidays, to determine whether the person violated the conditions of the release or whether resumption of full-time hospitalization is the least restrictive alternative consistent with the person's needs and public safety. The director of the department of mental health, or the director's designee, shall conduct the hearing. The person shall be given notice at least twenty-four hours in advance of the hearing and shall have the right to have an advocate present.

18. At any time during the period of a conditional release or trial release, the court which ordered the release may issue a notice to the released person to appear to answer a charge of a violation of the terms of the release and the court may issue a warrant of arrest for the violation. Such notice shall be personally served upon the released person. The warrant shall authorize the return of the released person to the custody of the court or to the custody of the director of mental health or the director's designee.

19. The head of a mental health facility, upon any notice that a committed person has escaped confinement, or left the facility or its grounds without authorization, shall immediately notify the prosecutor and sheriff of the county wherein the committed person is detained of the escape or unauthorized leaving of grounds and the prosecutor and sheriff of the county where the person was tried and acquitted.

20. Any person committed to a mental health facility under the provisions of this section upon acquittal on the grounds of mental disease or defect excluding responsibility for a dangerous felony as defined in section 556.061, murder in the first degree pursuant to section 565.020, or sexual assault pursuant to section 566.040 shall not be eligible for conditional or unconditional release under the provisions of this section unless, in addition to the requirements of this section, the court finds that the following criteria are met:

(1) Such person is not now and is not likely in the reasonable future to commit another violent crime against another person because of such person's mental illness; and

(2) Such person is aware of the nature of the violent crime committed against another person and presently possesses the capacity to appreciate the criminality of the violent crime against another person and the capacity to conform such person's conduct to the requirements of law in the future.

563.033. BATTERED SPOUSE SYNDROME EVIDENCE THAT DEFENDANT ACTED IN SELF-DEFENSE OR DEFENSE OF ANOTHER — PROCEDURE. — 1. Evidence that the actor was suffering from the battered spouse syndrome shall be admissible upon the issue of whether the actor lawfully acted in self-defense or defense of another.

2. If the defendant proposes to offer evidence of the battered spouse syndrome, he shall file written notice thereof with the court in advance of trial. Thereafter, the court, upon motion of the state, shall appoint one or more private psychiatrists or psychologists, as defined in section 632.005, or physicians with a minimum of one year training or experience in providing treatment or services to **[**mentally retarded**]** **intellectually disabled** or mentally ill individuals, who are neither employees nor contractors of the department of mental health for the purposes of performing the examination in question, to examine the accused, or shall direct the director of the department of mental health, or his designee, to have the accused so examined by one or

more psychiatrists or psychologists, as defined in section 632.005, or physicians with a minimum of one year training or experience in providing treatment or services to **[**mentally retarded**]** **intellectually disabled** or mentally ill individuals designated by the director, or his designee, for the purpose of examining the defendant. No private psychiatrist, psychologist, or physician shall be appointed by the court unless he has consented to act. The examinations ordered shall be made at such time and place and under such conditions as the court deems proper; except that if the order directs the director of the department of mental health to have the accused examined, the director, or his designee, shall determine the reasonable time, place and conditions under which the examination shall be conducted. The order may include provisions for the interview of witnesses.

3. No statement made by the accused in the course of any such examination and no information received by any physician or other person in the course thereof, whether such examination was made with or without the consent of the accused or upon his motion or upon that of others, shall be admitted in evidence against the accused on the issue of whether he committed the act charged against him in any criminal proceeding then or thereafter pending in any court, state or federal.

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

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

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

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

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

(2) If the trier does not find beyond a reasonable doubt at least one of the statutory aggravating circumstances set out in subsection 2 of section 565.032; or

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

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

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

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

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

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

630.003. DEPARTMENT CREATED — STATE MENTAL HEALTH COMMISSION — MISSOURI INSTITUTE OF MENTAL HEALTH — TRANSFERS OF POWERS AND AGENCIES. — 1. There is hereby created a department of mental health to be headed by a mental health commission who shall appoint a director, by and with the advice and consent of the senate. The director shall be the administrative head of the department and shall serve at the pleasure of the commission and be compensated as provided by law for the director, division of mental health. All employees of the department shall be selected in accordance with chapter 36.

2. (1) The "State Mental Health Commission", composed of seven members, is the successor to the former state mental health commission and it has all the powers, duties and responsibilities of the former commission. All members of the commission shall be appointed by the governor, by and with the advice and consent of the senate. None of the members shall otherwise be employed by the state of Missouri.

(2) Three of the commission members first appointed shall be appointed for terms of four years, and two shall be appointed for terms of three years, and two shall be appointed for a term of two years. The governor shall designate, at the time the appointments are made, the length of the term of each member so appointed. Thereafter all terms shall be for four years.

(3) At least two of the members of the commission shall be physicians, one of whom shall be recognized as an expert in the field of the treatment of nervous and mental diseases, and one of whom shall be recognized as an expert in the field of intellectual or developmental disabilities. At least two of the members of the commission shall be representative of persons or groups who are consumers having substantial interest in the services provided by the division, one of whom shall represent persons with an intellectual disability or developmental disability and one of

whom shall represent those persons being treated for nervous and mental diseases. Of the other three members at least one must be recognized for his expertise in general business management procedures, and two shall be recognized for their interest and expertise in dealing with alcohol/drug abuse problems, or community mental health services.

3. The provisions of sections 191.120, 191.125, 191.130, 191.140, 191.150, 191.160, 191.170, 191.180, 191.190, 191.200, 191.210 and others as they relate to the division of mental health not previously reassigned by executive reorganization plan number 2 of 1973 as submitted by the governor under chapter 26 are transferred by specific type transfer from the department of public health and welfare to the department of mental health. The division of mental health, department of health and welfare, chapter 202 and others are abolished and all powers, duties and functions now assigned by law to the division, the director of the divisions of mental health or any of the institutions or officials of the division are transferred by type I transfer to the department of mental health.

4. The Missouri institute of psychiatry, which is under the board of curators of the University of Missouri is hereafter to be known as the "Missouri Institute of Mental Health". The purpose of the institute will be that of conducting research into improving services for persons served by the department of mental health for fostering the training of psychiatric residents in public psychiatry and for fostering excellence in mental health services through employee training and the study of mental health policy and ethics. To assist in this training, hospitals operated by and providers contracting with the department of mental health may be used for the same purposes and under the same arrangements as the board of curators of the University of Missouri utilizes with other hospitals in the state in supervising residency training for medical doctors. Appropriations requests for the Missouri institute of mental health shall be jointly developed by the University of Missouri and the department of mental health. All appropriations for the Missouri institute of mental health shall be made to the curators of the University of Missouri but shall be submitted separately from the appropriations of the curators of the University of Missouri.

5. There is hereby established within the department of mental health a division of developmental disabilities. The director of the division shall be appointed by the director of the department. The division shall administer all state facilities under the direction and authority of the department director. The Marshall Habilitation Center, the Higginsville Habilitation Center, the Bellefontaine Habilitation Center, the Nevada Habilitation Center, the St. Louis Developmental Disabilities Treatment Centers, and the regional centers located at Albany, Columbia, Hannibal, Joplin, Kansas City, Kirksville, Poplar Bluff, Rolla, St. Louis, Sikeston and Springfield and other similar facilities as may be established, are transferred by type I transfer to the division of developmental disabilities.

6. All the duties, powers and functions of the advisory council on mental retardation and community health centers, sections 202.664 to 202.666, are hereby transferred by type I transfer to the division of mental retardation and developmental disabilities of the department of mental health. The advisory council on mental retardation and community health centers shall be appointed by the division director.

7. The advisory council on mental retardation and developmental disabilities heretofore established by executive order and all of the duties, powers and functions of the advisory council including the responsibilities of the provision of the council in regard to the Federal Development Disabilities Law (P.L. 91-517) and all amendments thereto are transferred by type I transfer to the division of **[**mental retardation and**]** developmental disabilities. The advisory council on mental retardation and developmental disabilities shall be appointed by the director of the division of **[**mental retardation and**]** developmental disabilities.

8. The advisory council on alcoholism and drug abuse, chapter 202, is transferred by type II transfer to the department of mental health and the members of the advisory council shall be appointed by the mental health director.

630.005. DEFINITIONS. — As used in this chapter and chapters 631, 632, and 633, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Administrative entity", a provider of specialized services other than transportation to clients of the department on behalf of a division of the department;

(2) "Alcohol abuse", the use of any alcoholic beverage, which use results in intoxication or in a psychological or physiological dependency from continued use, which dependency induces a mental, emotional or physical impairment and which causes socially dysfunctional behavior;

(3) "Chemical restraint", medication administered with the primary intent of restraining a patient who presents a likelihood of serious physical injury to himself or others, and not prescribed to treat a person's medical condition;

(4) "Client", any person who is placed by the department in a facility or program licensed and funded by the department or who is a recipient of services from a regional center, as defined in section 633.005;

(5) "Commission", the state mental health commission;

(6) "Consumer", a person:

(a) Who qualifies to receive department services; or

(b) Who is a parent, child or sibling of a person who receives department services; or

(c) Who has a personal interest in services provided by the department. A person who provides services to persons affected by intellectual disabilities, developmental disabilities, mental disorders, mental illness, or alcohol or drug abuse shall not be considered a consumer;

(7) "Day program", a place conducted or maintained by any person who advertises or holds himself out as providing prevention, evaluation, treatment, habilitation or rehabilitation for persons affected by mental disorders, mental illness, intellectual disabilities, developmental disabilities or alcohol or drug abuse for less than the full twenty-four hours comprising each daily period;

(8) "Department", the department of mental health of the state of Missouri;

(9) "Developmental disability", a disability:

(a) Which is attributable to:

a. **[**Mental retardation**]** **Intellectual disability**, cerebral palsy, epilepsy, head injury or autism, or a learning disability related to a brain dysfunction; or

b. Any other mental or physical impairment or combination of mental or physical impairments; and

(b) Is manifested before the person attains age twenty-two; and

(c) Is likely to continue indefinitely; and

(d) Results in substantial functional limitations in two or more of the following areas of major life activities:

a. Self-care;

b. Receptive and expressive language development and use;

c. Learning;

d. Self-direction;

e. Capacity for independent living or economic self-sufficiency;

f. Mobility; and

(e) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, habilitation or other services which may be of lifelong or extended duration and are individually planned and coordinated;

(10) "Director", the director of the department of mental health, or his designee;

(11) "Domiciled in Missouri", a permanent connection between an individual and the state of Missouri, which is more than mere residence in the state; it may be established by the individual being physically present in Missouri with the intention to abandon his previous domicile and to remain in Missouri permanently or indefinitely;

(12) "Drug abuse", the use of any drug without compelling medical reason, which use results in a temporary mental, emotional or physical impairment and causes socially dysfunctional behavior, or in psychological or physiological dependency resulting from continued use, which dependency induces a mental, emotional or physical impairment and causes socially dysfunctional behavior;

(13) "Habilitation", a process of treatment, training, care or specialized attention which seeks to enhance and maximize a person with an intellectual disability or a developmental disability to cope with the environment and to live as normally as possible;

(14) "Habilitation center", a residential facility operated by the department and serving only persons who are developmentally disabled;

(15) "Head of the facility", the chief administrative officer, or his designee, of any residential facility;

(16) "Head of the program", the chief administrative officer, or his designee, of any day program;

(17) "Individualized habilitation plan", a document which sets forth habilitation goals and objectives for residents and clients with an intellectual disability or a developmental disability, and which details the habilitation program as required by law, rules and funding sources;

(18) "Individualized rehabilitation plan", a document which sets forth the care, treatment and rehabilitation goals and objectives for patients and clients affected by alcohol or drug abuse, and which details the rehabilitation program as required by law, rules and funding sources;

(19) "Individualized treatment plan", a document which sets forth the care, treatment and rehabilitation goals and objectives for patients and clients with mental disorders or mental illness, and which details the treatment program as required by law, rules and funding sources;

(20) **"Intellectual disability", significantly subaverage general intellectual functioning which:**

(a) Originates before age eighteen; and

(b) Is associated with a significant impairment in adaptive behavior;

(21) "Investigator", an employee or contract agent of the department of mental health who is performing an investigation regarding an allegation of abuse or neglect or an investigation at the request of the director of the department of mental health or his designee;

[(21)**] (22)** "Least restrictive environment", a reasonably available setting or mental health program where care, treatment, habilitation or rehabilitation is particularly suited to the level and quality of services necessary to implement a person's individualized treatment, habilitation or rehabilitation plan and to enable the person to maximize his or her functioning potential to participate as freely as feasible in normal living activities, giving due consideration to potentially harmful effects on the person and the safety of other facility or program clients and public safety. For some persons with mental disorders, intellectual disabilities, or developmental disabilities, the least restrictive environment may be a facility operated by the department, a private facility, a supported community living situation, or an alternative community program designed for persons who are civilly detained for outpatient treatment or who are conditionally released pursuant to chapter 632;

[(22)**] (23)** "Mental disorder", any organic, mental or emotional impairment which has substantial adverse effects on a person's cognitive, volitional or emotional function and which constitutes a substantial impairment in a person's ability to participate in activities of normal living;

[(23)**] (24)** "Mental illness", a state of impaired mental processes, which impairment results in a distortion of a person's capacity to recognize reality due to hallucinations, delusions, faulty perceptions or alterations of mood, and interferes with an individual's ability to reason, understand or exercise conscious control over his actions. The term "mental illness" does not include the following conditions unless they are accompanied by a mental illness as otherwise defined in this subdivision:

(a) **[**Mental retardation**] Intellectual disability**, developmental disability or narcolepsy;

(b) Simple intoxication caused by substances such as alcohol or drugs;

(c) Dependence upon or addiction to any substances such as alcohol or drugs;

(d) Any other disorders such as senility, which are not of an actively psychotic nature;

[(24) "Mental retardation", significantly subaverage general intellectual functioning which:

(a) Originates before age eighteen; and

(b) Is associated with a significant impairment in adaptive behavior;**]**

(25) "Minor", any person under the age of eighteen years;

(26) "Patient", an individual under observation, care, treatment or rehabilitation by any hospital or other mental health facility or mental health program pursuant to the provisions of chapter 632;

(27) "Psychosurgery",

(a) Surgery on the normal brain tissue of an individual not suffering from physical disease for the purpose of changing or controlling behavior; or

(b) Surgery on diseased brain tissue of an individual if the sole object of the surgery is to control, change or affect behavioral disturbances, except seizure disorders;

(28) "Rehabilitation", a process of restoration of a person's ability to attain or maintain normal or optimum health or constructive activity through care, treatment, training, counseling or specialized attention;

(29) "Residence", the place where the patient has last generally lodged prior to admission or, in case of a minor, where his family has so lodged; except, that admission or detention in any facility of the department shall not be deemed an absence from the place of residence and shall not constitute a change in residence;

(30) "Resident", a person receiving residential services from a facility, other than mental health facility, operated, funded or licensed by the department;

(31) "Residential facility", any premises where residential prevention, evaluation, care, treatment, habilitation or rehabilitation is provided for persons affected by mental disorders, mental illness, intellectual disability, developmental disabilities or alcohol or drug abuse; except the person's dwelling;

(32) "Specialized service", an entity which provides prevention, evaluation, transportation, care, treatment, habilitation or rehabilitation services to persons affected by mental disorders, mental illness, intellectual disabilities, developmental disabilities or alcohol or drug abuse;

(33) "Vendor", a person or entity under contract with the department, other than as a department employee, who provides services to patients, residents or clients;

(34) "Vulnerable person", any person in the custody, care, or control of the department that is receiving services from an operated, funded, licensed, or certified program.

630.130. ELECTROCONVULSIVE THERAPY, PROCEDURE — PROHIBITIONS — ATTORNEY'S FEES. — 1. Every patient, whether voluntary or involuntary, in a public or private mental health facility shall have the right to refuse electroconvulsive therapy.

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

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

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

(2) There is no less drastic alternative form of therapy which could lead to substantial improvement in the patient's condition. At the conclusion of such hearing, if the petitioner has

sustained his burden of proof, the court may order up to a specified number of involuntary electroconvulsive therapy treatments to be performed over a specified period of time.

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

5. Persons who are diagnosed solely as **[**mentally retarded**]** **intellectually disabled** shall not be subject to electroconvulsive therapy.

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

630.340. SHELTERED WORKSHOPS AND ACTIVITY CENTERS AUTHORIZED — OPERATION. — 1. With the approval of the director, the head of any mental health or **[**retardation**]** **intellectual disability** facility or regional center operated by the department may establish a vocational activity center for its patients or residents.

2. Each facility or regional center shall keep revenues received from the activity center in a separate account. The acquisition costs to obtain materials to produce any goods sold and other expenses shall be paid from this account. A minimum amount of money necessary to meet cash flow needs and current operating expenses may be maintained in this account. The remaining funds from sales of the activity center shall be deposited monthly in the state treasury to the credit of the general revenue fund.

3. This section shall not be construed to authorize any facility or regional center to establish an activity center on the grounds for patients or residents who could participate in a sheltered workshop, as defined and authorized in sections 178.900 to 178.960, off the grounds of the facility or regional center.

630.705. RULES FOR STANDARDS FOR FACILITIES AND PROGRAMS FOR PERSONS AFFECTED BY MENTAL DISORDER, MENTAL ILLNESS, OR DEVELOPMENTAL DISABILITY — CLASSIFICATION OF FACILITIES AND PROGRAMS — CERTAIN FACILITIES AND PROGRAMS NOT TO BE LICENSED. — 1. The department shall promulgate rules setting forth reasonable standards for residential facilities and day programs for persons who are affected by a mental disorder, mental illness, intellectual disability, or developmental disability.

2. The rules shall provide for the facilities and programs to be reasonably classified as to resident or client population, size, type of services or other reasonable classification. The department shall design the rules to promote and regulate safe, humane and adequate facilities and programs for the care, treatment, habilitation and rehabilitation of persons described in subsection 1 of this section.

3. The following residential facilities and day programs shall not be licensed by the department:

(1) Any facility or program which relies solely upon the use of prayer or spiritual healing;

(2) Any educational, special educational or vocational program operated, certified or approved by the state board of education pursuant to chapters 161, 162 and 178, and regulations promulgated by the board;

(3) Any hospital, facility, program or entity operated by this state or the United States; except that facilities operated by the department shall meet these standards;

(4) Any hospital, facility or other entity, excluding those with persons who are **[**mentally retarded**]** **intellectually disabled** and developmentally disabled as defined in section 630.005 otherwise licensed by the state and operating under such license and within the limits of such

license, unless the majority of the persons served receive activities and services normally provided by a licensed facility pursuant to this chapter;

(5) Any hospital licensed by the department of social services as a psychiatric hospital pursuant to chapter 197;

(6) Any facility or program accredited by the Joint Commission on Accreditation of Hospitals, the American Osteopathic Association, **[**Accreditation Council for Services for Mentally Retarded or other Developmentally Disabled Persons**] the Council on Quality and Leadership**, Council on Accreditation of Services for Children and Families, Inc., or the Commission on Accreditation of Rehabilitation Facilities;

(7) Any facility or program caring for less than four persons whose care is not funded by the department.

633.020. ADVISORY COUNCIL ON DEVELOPMENTAL DISABILITIES — MEMBERS, NUMBER, TERMS, QUALIFICATIONS, APPOINTMENT — ORGANIZATION, MEETINGS — DUTIES. — 1. The "Missouri Developmental Disabilities Council", consisting of up to twenty-five members, the number to be determined under the council bylaws, is hereby created to advise the division and the division director.

2. The members of the Missouri planning council for developmental disabilities, created by executive order of the governor on October 26, 1979, for the remainder of their appointed terms, and up to five persons to be appointed by the director, for staggered terms of three years each, shall act as such advisory body. At the expiration of the term of each member, the director shall appoint an individual who shall hold office for a term of three years. At least one-half of the members shall be consumers. Other members shall have professional, research or personal interest in intellectual disabilities and developmental disabilities. At least one member shall be a manager of or a member of the board of directors of a sheltered workshop as defined in section 178.900. No more than one-fourth of the members shall be vendors or members of boards of directors, employees or officers of vendors, or any of their spouses, if such vendors receive more than fifteen hundred dollars under contract with the department; except that members of boards of directors of not-for-profit corporations shall not be considered members of board of directors of vendors under this subsection.

3. Meetings shall be held at least every ninety days or at the call of the division director or the council chairman, who shall be elected by the council.

4. Each member shall be reimbursed for reasonable and necessary expenses, including travel expenses, pursuant to department travel regulations, actually incurred in the performance of his official duties.

5. The council may be divided into subcouncils in accordance with its bylaws.

6. The council shall collaborate with the department in developing and administering a state plan for intellectual disabilities and developmental disabilities services.

7. No member of a state advisory council may participate in or seek to influence a decision or vote of the council if the member would be directly involved with the matter or if he would derive income from it. A violation of the prohibition contained herein shall be grounds for a person to be removed as a member of the council by the director.

8. The council shall be advisory and shall:

(1) Promote meetings and programs for the discussion of reducing the debilitating effects of intellectual disabilities and developmental disabilities and disseminate information in cooperation with any other department, agency or entity on the prevention, evaluation, care, treatment and habilitation for persons affected by intellectual disabilities and developmental disabilities;

(2) Study and review current prevention, evaluation, care, treatment and rehabilitation technologies and recommend appropriate preparation, training, retraining and distribution of manpower and resources in the provision of services to persons with an intellectual disability or

a developmental disability through private and public residential facilities, day programs and other specialized services;

(3) Recommend what specific methods, means and procedures should be adopted to improve and upgrade the department's intellectual disabilities and developmental disabilities service delivery system for citizens of this state;

(4) Participate in developing and disseminating criteria and standards to qualify **[**mental retardation**] intellectual disability** or developmental disability residential facilities, day programs and other specialized services in this state for funding or licensing, or both, by the department.

633.105. REGIONAL CENTERS TO SECURE SERVICES. — The regional centers shall be the entry and exit points in each region responsible for securing comprehensive **[**mental retardation**] intellectual disability** and developmental disability services for clients of the department. The center shall carry out this responsibility either through contracts purchasing the required services or through the direct provision of the services if community-based services are not available, economical or as effective for the provision of the services.

633.170. DEFINITIONS. — As used in sections 633.170 to 633.195 and section 208.500, the following terms mean:

(1) "Adult", a person eighteen years of age or older;

(2) "Child", a person under the age of eighteen;

(3) "Developmental disability", a disability which:

(a) Is attributable to:

a. **[**Mental retardation**] Intellectual disability**, cerebral palsy, epilepsy, head injury or autism, or a learning disability related to a brain dysfunction; or

b. Any other mental or physical impairment or a combination of mental and physical impairments;

(b) Is manifested before the person attains age twenty-two;

(c) Is likely to continue indefinitely; and

(d) Results in substantial functional limitations in two or more of the following areas of major life activities:

a. Self-care;

b. Receptive and expressive language development and use;

c. Learning;

d. Self-direction;

e. Capacity for independent living or economic self-sufficiency; and

f. Mobility;

(e) Reflects the person's need for a combination and sequence of special, interdisciplinary or generic care, or other services;

(f) Reflects the person's need for services and supports which may be of lifelong or extended duration and are individually planned and coordinated;

(4) "Family or private caregiver", the person or persons with whom the individual who has a developmental disability resides or who is primarily responsible for the physical care, education, health, and nurturing of the person with a disability. The term does not apply to persons providing care through hospitals, habilitation centers, nursing homes, group homes, or any other such institution;

(5) "Family support", services and helping relationships whose purpose is to maintain and enhance family caregiving. Family support may be one or many services that enable individuals with disabilities to reside within the family home and remain integrated within their community and are:

(a) Based on individual and family needs;

(b) Identified by the family;

(c) Easily accessible for the family;

(d) Flexible and varied to meet the ever changing needs of family members;

(e) Provided in a timely manner; and

(f) Family centered and culturally sensitive;

(6) "Family support program", a coordinated system of family support services which enhance family caregiving, strengthen family functioning, reduce family stress, foster community integration, promote individual and family independence and encourage economic self-sufficiency for the purpose of helping children with developmental disabilities remain with their families.

633.401. DEFINITIONS — ASSESSMENT IMPOSED, FORMULA — RATES OF PAYMENT — FUND CREATED, USE OF MONEYS — RECORD-KEEPING REQUIREMENTS — REPORT — APPEAL PROCESS — RULEMAKING AUTHORITY — EXPIRATION DATE. — 1. For purposes of this section, the following terms mean:

(1) "Engaging in the business of providing health benefit services", accepting payment for health benefit services;

(2) "Intermediate care facility for the **[**mentally retarded**] intellectually disabled**", a private or department of mental health facility which admits persons who are **[**mentally retarded**] intellectually disabled** or developmentally disabled for residential habilitation and other services pursuant to chapter 630. Such term shall include habilitation centers and private or public intermediate care facilities for the **[**mentally retarded**] intellectually disabled** that have been certified to meet the conditions of participation under 42 CFR, Section 483, Subpart 1;

(3) "Net operating revenues from providing services of intermediate care facilities for the **[**mentally retarded**] intellectually disabled**" shall include, without limitation, all moneys received on account of such services pursuant to rates of reimbursement established and paid by the department of social services, but shall not include charitable contributions, grants, donations, bequests and income from nonservice related fund-raising activities and government deficit financing, contractual allowance, discounts or bad debt;

(4) "Services of intermediate care facilities for the **[**mentally retarded**] intellectually disabled**" has the same meaning as the term **"services of intermediate care facilities for the mentally retarded", as** used in Title 42 United States Code, Section 1396b(w)(7)(A)(iv), as amended, and as such qualifies as a class of health care services recognized in federal Public Law 102-234, the Medicaid Voluntary Contribution and Provider Specific Tax Amendment of 1991.

2. Beginning July 1, 2008, each provider of services of intermediate care facilities for the **[**mentally retarded**] intellectually disabled** shall, in addition to all other fees and taxes now required or paid, pay assessments on their net operating revenues for the privilege of engaging in the business of providing services of the intermediate care facilities for the **[**mentally retarded**] intellectually disabled** or developmentally disabled in this state.

3. Each facility's assessment shall be based on a formula set forth in rules and regulations promulgated by the department of mental health.

4. For purposes of determining rates of payment under the medical assistance program for providers of services of intermediate care facilities for the **[**mentally retarded**] intellectually disabled**, the assessment imposed pursuant to this section on net operating revenues shall be a reimbursable cost to be reflected as timely as practicable in rates of payment applicable within the assessment period, contingent, for payments by governmental agencies, on all federal approvals necessary by federal law and regulation for federal financial participation in payments made for beneficiaries eligible for medical assistance under Title XIX of the federal Social Security Act.

5. Assessments shall be submitted by or on behalf of each provider of services of intermediate care facilities for the **[**mentally retarded**] intellectually disabled** on a monthly basis to the director of the department of mental health or his or her designee and shall be made payable to the director of the department of revenue.

6. In the alternative, a provider may direct that the director of the department of social services offset, from the amount of any payment to be made by the state to the provider, the amount of the assessment payment owed for any month.

7. Assessment payments shall be deposited in the state treasury to the credit of the "Intermediate Care Facility **[**Mentally Retarded**]** **Intellectually Disabled** Reimbursement Allowance Fund", which is hereby created in the state treasury. All investment earnings of this fund shall be credited to the fund. Notwithstanding the provisions of section 33.080 to the contrary, any unexpended balance in the intermediate care facility **[**mentally retarded**]** **intellectually disabled** reimbursement allowance fund at the end of the biennium shall not revert to the general revenue fund but shall accumulate from year to year. The state treasurer shall maintain records that show the amount of money in the fund at any time and the amount of any investment earnings on that amount.

8. Each provider of services of intermediate care facilities for the **[**mentally retarded**]** **intellectually disabled** shall keep such records as may be necessary to determine the amount of the assessment for which it is liable under this section. On or before the forty-fifth day after the end of each month commencing July 1, 2008, each provider of services of intermediate care facilities for the **[**mentally retarded**]** **intellectually disabled** shall submit to the department of social services a report on a cash basis that reflects such information as is necessary to determine the amount of the assessment payable for that month.

9. Every provider of services of intermediate care facilities for the **[**mentally retarded**]** **intellectually disabled** shall submit a certified annual report of net operating revenues from the furnishing of services of intermediate care facilities for the **[**mentally retarded**]** **intellectually disabled**. The reports shall be in such form as may be prescribed by rule by the director of the department of mental health. Final payments of the assessment for each year shall be due for all providers of services of intermediate care facilities for the **[**mentally retarded**]** **intellectually disabled** upon the due date for submission of the certified annual report.

10. The director of the department of mental health shall prescribe by rule the form and content of any document required to be filed pursuant to the provisions of this section.

11. Upon receipt of notification from the director of the department of mental health of a provider's delinquency in paying assessments required under this section, the director of the department of social services shall withhold, and shall remit to the director of the department of revenue, an assessment amount estimated by the director of the department of mental health from any payment to be made by the state to the provider.

12. In the event a provider objects to the estimate described in subsection 11 of this section, or any other decision of the department of mental health related to this section, the provider of services may request a hearing. If a hearing is requested, the director of the department of mental health shall provide the provider of services an opportunity to be heard and to present evidence bearing on the amount due for an assessment or other issue related to this section within thirty days after collection of an amount due or receipt of a request for a hearing, whichever is later. The director shall issue a final decision within forty-five days of the completion of the hearing. After reconsideration of the assessment determination and a final decision by the director of the department of mental health, an intermediate care facility for the **[**mentally retarded**]** **intellectually disabled** provider's appeal of the director's final decision shall be to the administrative hearing commission in accordance with sections 208.156 and 621.055.

13. Notwithstanding any other provision of law to the contrary, appeals regarding this assessment shall be to the circuit court of Cole County or the circuit court in the county in which the facility is located. The circuit court shall hear the matter as the court of original jurisdiction.

14. Nothing in this section shall be deemed to affect or in any way limit the tax-exempt or nonprofit status of any intermediate care facility for the **[**mentally retarded**]** **intellectually disabled** granted by state law.

15. The director of the department of mental health shall promulgate rules and regulations to implement this section. Any rule or portion of a rule, as that term is defined in section

536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

16. The provisions of this section shall expire on September 30, 2015.

660.075. INTERMEDIATE CARE FACILITY FOR INTELLECTUALLY DISABLED — CERTIFICATE OF AUTHORIZATION NEEDED FOR PROVIDER AGREEMENT — EXCEPTION — CERTIFICATES NOT TO BE ISSUED, WHEN — NOTICE TO DEPARTMENT, WHEN. — 1. The division of medical services shall not issue a provider agreement to an intermediate care facility for the **[**mentally retarded**]** **intellectually disabled** provider after May 29, 1991, unless and until the department of mental health transmits a certification of authorization to provide services, provided, however, a profit or not-for-profit provider may operate a single home of six beds or less without issuance of a certificate to the division of medical services. Such certification shall be provider specific and shall contain the number of beds authorized.

2. Notwithstanding any other provision of law to the contrary, any provider intending to operate an intermediate care facility for the **[**mentally retarded**]** **intellectually disabled** in excess of those beds in existence on May 29, 1991, shall give notice to the department of mental health of any intent to do so between July first and October first of the fiscal year preceding the fiscal year in which they intend to operate such facility.

3. In addition to other good cause as established by administrative rules promulgated by the director of the department of mental health, such intermediate care facility for the **[**mentally retarded**]** **intellectually disabled** operations as may be accommodated within the home and community-based waiver for the developmentally disabled shall be refused certificates of authorization by the department of mental health. The division of medical services shall refuse intermediate care facility for the **[**mentally retarded**]** **intellectually disabled** provider agreements to providers to whom the department of mental health has refused certificates of authorization.

660.405. EXCEPTIONS TO LICENSURE REQUIREMENTS FOR ADULT DAY CARE CENTERS. — 1. The provisions of sections 199.025 and 660.403 to 660.420 shall not apply to the following:

(1) Any adult day care program operated by a person in which care is offered for no more than two hours per day;

(2) Any adult day care program maintained or operated by the federal government except where care is provided through a management contract;

(3) Any person who cares solely for persons related to the provider or who has been designated as guardian of that person;

(4) Any adult day care program which cares for no more than four persons unrelated to the provider;

(5) Any adult day care program licensed by the department of mental health under chapter 630 which provides care, treatment and habilitation exclusively to adults who have a primary diagnosis of mental disorder, mental illness, **[**mental retardation**]** **intellectual disability** or developmental disability as defined;

(6) Any adult day care program administered or maintained by a religious not-for-profit organization serving a social or religious function if the adult day care program does not hold itself out as providing the prescription or usage of physical or medical therapeutic activities or as providing or administering medicines or drugs.

2. Nothing in this section shall prohibit any person listed in subsection 1 of this section from applying for a license or receiving a license if the adult day care program owned or operated by

such person conforms to the provisions of sections 199.025 and 660.403 to 660.420 and all applicable rules promulgated pursuant thereto.

SECTION 1. INTELLECTUALLY DISABLED AND INTELLECTUAL DISABILITY, USE OF TERMS — REVISOR TO CHANGE STATUTORY REFERENCES. — The phrases "mentally retarded" and "mental retardation" shall be referred to as "intellectually disabled" and "intellectual disability", respectively. The revisor of statutes shall make the appropriate changes to all such references in the revised statutes.

[208.275. COORDINATING COUNCIL ON SPECIAL TRANSPORTATION, CREATION — MEMBERS, QUALIFICATIONS, APPOINTMENT, TERMS, EXPENSES — STAFF — POWERS — DUTIES. — 1. As used in this section, unless the context otherwise indicates, the following terms mean:

(1) "Elderly", any person who is sixty years of age or older;

(2) "Handicapped", any person having a physical or mental condition, either permanent or temporary, which would substantially impair ability to operate or utilize available transportation.

2. There is hereby created the "Coordinating Council on Special Transportation" within the Missouri department of transportation. The members of the council shall be: the assistant for transportation of the Missouri department of transportation, or his designee; the assistant commissioner of the department of elementary and secondary education, responsible for special transportation, or his designee; the director of the division of aging of the department of social services, or his designee; the deputy director for mental retardation/developmental disabilities and the deputy director for administration of the department of mental health, or their designees; the executive secretary of the governor's committee on the employment of the handicapped; and seven consumer representatives appointed by the governor by and with the advice and consent of the senate, four of the consumer representatives shall represent the elderly and three shall represent the handicapped. Two of such three members representing handicapped persons shall represent those with physical handicaps. Consumer representatives appointed by the governor shall serve for terms of three years or until a successor is appointed and qualified. Of the members first selected, two shall be selected for a term of three years, two shall be selected for a term of two years, and three shall be selected for a term of one year. In the event of the death or resignation of any member, his successor shall be appointed to serve for the unexpired period of the term for which such member had been appointed.

3. State agency personnel shall serve on the council without additional appropriations or compensation. The consumer representatives shall serve without compensation except for receiving reimbursement for the reasonable and necessary expenses incurred in the performance of their duties on the council from funds appropriated to the department of transportation.

4. Staff for the council shall be provided by the Missouri department of transportation. The department shall designate a special transportation coordinator who shall have had experience in the area of special transportation, as well as such other staff as needed to enable the council to perform its duties.

5. The council shall meet at least quarterly each year and shall elect from its members a chairman and a vice chairman.

6. The coordinating council on special transportation shall:

(1) Recommend and periodically review policies for the coordinated planning and delivery of special transportation when appropriate;

(2) Identify special transportation needs and recommend agency funding allocations and resources to meet these needs when appropriate;

(3) Identify legal and administrative barriers to effective service delivery;

(4) Review agency methods for distributing funds within the state and make recommendations when appropriate;

(5) Review agency funding criteria and make recommendations when appropriate;

(6) Review area transportation plans and make recommendations for plan format and content;

(7) Establish measurable objectives for the delivery of transportation services;

(8) Review annual performance data and make recommendations for improved service delivery, operating procedures or funding when appropriate;

(9) Review local disputes and conflicts on special transportation and recommend solutions.

7. The provisions of this section shall expire on December 31, 2014.]

Approved June 4, 2014

HB 1075 [SS HCS HB 1075]

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

Changes the laws regarding unclaimed property

AN ACT to repeal sections 447.503, 447.535, 447.536, 447.547, 447.560, 447.569, and 447.584, RSMo, and to enact in lieu thereof nine new sections relating to unclaimed property, with penalty provisions and an emergency clause for certain sections.

SECTION

A. Enacting clause.
447.503. Definitions.
447.534. United States savings bonds deemed abandoned, when — proceeds to escheat to the state, when — filing of a claim, procedure.
447.535. All other intangible property presumed abandoned, when — ongoing business relationships, certain items not presumed abandoned, when.
447.536. Abandonment period, effective when — exception for payroll checks.
447.547. Law of abandoned property not applicable, when.
447.548. Reportable periods, no enforcement after three years, when — fraudulent report, enforcement for six years.
447.560. Record of property, content — retained for public inspection — information not public record, when — public record, when — penalty for disclosure — military medals, procedure — United States savings bonds, procedure.
447.569. Appeal of treasurer's decision or failure to act, when — report filed, deemed contested case.
447.584. Agreements — property held by business entities in other states or governmental entities — treasurer, duties — fees.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 447.503, 447.535, 447.536, 447.547, 447.560, 447.569, and 447.584, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 447.503, 447.534, 447.535, 447.536, 447.547, 447.548, 447.560, 447.569, and 447.584, to read as follows:

447.503. DEFINITIONS. — As used in sections 447.500 to 447.595, unless the context otherwise requires, the following terms mean:

(1) "Banking organization", any bank, trust company, or safe deposit company, engaged in business in this state;

(2) "Business association", any corporation, joint stock company, business trust, partnership, limited partnership, or any association for business purposes, or any mutual fund or other similar entity, whether operating in the form of a corporation or a trust, including but not limited to any investment companies registered under the federal Investment Company Act of 1940;

(3) **"Business credit", any credit offered by one business entity to another business entity to be applied in exchange for goods or services but does not have a redeemable cash value;**

(4) "Engaged in business in this state", any transaction of business within this state sufficient to support personal jurisdiction in the courts of this state;

[(4)**] (5)** "Financial organization", any savings and loan association, credit union, or loan and investment company engaged in business in this state;

[(5)**] (6)** "Holder", any person in possession of property subject to sections 447.500 to 447.595 belonging to another, or who is trustee in case of a trust, or is indebted to another on an obligation subject to sections 447.500 to 447.595;

[(6)**] (7)** "Insurance corporation", any association or corporation transacting within this state the business of property insurance or casualty insurance or life insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities;

[(7)**] (8)** "Military medals", any decoration or award that may be presented or awarded to a member of a unit of the armed forces or national guard;

[(8)**] (9)** "Owner", a depositor in case of a deposit, a beneficiary in case of a trust except a trust defined in section 456.500, the unclaimed property of which has not escheated pursuant to the provisions of section 456.650, a creditor, claimant, or payee in case of other choses in action, or any person having a legal or equitable interest in property subject to sections 447.500 to 447.595, or such person's legal representative;

[(9)**] (10)** "Person", any individual, business association, government or political subdivision, public corporation, public authority, estate, trust except a trust defined in section 456.500, two or more persons having a joint or common interest, or any other legal or commercial entity;

[(10)**] (11)** "Reasonable and necessary diligence as is consistent with good business practice", efforts appropriate to and commensurate with the nature and value of the property at issue; however, the holder shall send a notice regarding the unclaimed property via first class mail postage prepaid, marked "Address Correction Requested". Such letter shall be sent by the holder within twelve months prior to turning the property over to the treasurer. Notwithstanding the provisions of this section, the holder may treat letters sent in the ordinary course of business, first class and "Address Correction Requested" as satisfying the definition of "reasonable and necessary diligence as is consistent with good business practice". The holder may treat notices regarding the unclaimed property as satisfying the "reasonable and necessary standard" for contacting owners. If the postal service provides the holder with additional information as part of the address correction process, the holder shall send second and subsequent notices in the same format as the first notice to any new address provided to the holder;

[(11)**] (12)** "Treasurer", the Missouri state treasurer;

[(12)**] (13)** "Utility", any person who owns or operates within this state, for public use, any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas or who engages in such business in this state.

447.534. UNITED STATES SAVINGS BONDS DEEMED ABANDONED, WHEN — PROCEEDS TO ESCHEAT TO THE STATE, WHEN — FILING OF A CLAIM, PROCEDURE. — 1. Notwithstanding the provisions of subsection 2 of section 447.532, section 447.533, and

subsection 1 of section 447.545, United States savings bonds, which are unclaimed property and subject to the provisions of sections 447.500 to 447.595 shall be deemed abandoned when they have remained unclaimed for more than three years after their date of maturity and such bonds and the proceeds from such bonds, including all principal and interest due, in the possession of the treasurer or with an owner whose last known address is located in Missouri shall escheat to the state of Missouri three years after becoming unclaimed property by virtue of the provisions of sections 447.500 to 447.595 and all property rights and legal title to and ownership of such United States savings bonds and the proceeds from such bonds, including all rights, powers, and privileges of survivorship of any owner, co-owner, or beneficiary, shall vest solely in the state of Missouri according to the procedure set forth in subdivisions (1) to (3) of this subsection.

(1) After one hundred eighty days following the second three-year period referenced in subsection 1 of this section, if no claim has been approved in accordance with the provisions of section 447.562 for such United States savings bonds or proceeds from such bonds, the treasurer shall commence a civil action in the circuit court of Cole county for a determination that such United States savings bonds and the proceeds from such bonds shall escheat to the state of Missouri. The treasurer may postpone the bringing of such action until sufficient United States savings bonds have accumulated in the treasurer's custody to justify the expense of such proceedings.

(2) If no person shall file a claim or appear at the hearing to substantiate a claim or where the court determines that a claimant is not entitled to the United States savings bonds or proceeds from such bonds claimed by such claimant, then the court, if satisfied by evidence that the treasurer has substantially complied with the laws of the state of Missouri, shall enter a judgment that the subject United States savings bonds and the proceeds from such bonds have escheated to the state of Missouri, and all property rights and legal title to and ownership of such United States savings bonds and the proceeds from such bonds, including all rights, powers, and privileges of survivorship of any owner, co-owner, or beneficiary, shall vest solely in the state of Missouri.

(3) The treasurer shall redeem such United States savings bonds escheated to the state of Missouri and the proceeds from such redemption of United States savings bonds shall be deposited in the abandoned fund account created by section 447.543.

2. Any person making a claim for the United States savings bonds escheated to the state of Missouri, or for the proceeds from such bonds, may file a claim in accordance with the provisions of section 447.562. Upon providing sufficient proof of the validity of such person's claim, the treasurer may pay such claim in accordance with the provisions of section 447.565.

447.535. ALL OTHER INTANGIBLE PROPERTY PRESUMED ABANDONED, WHEN — ONGOING BUSINESS RELATIONSHIPS, CERTAIN ITEMS NOT PRESUMED ABANDONED, WHEN. — 1. All intangible personal property, not otherwise covered by sections 447.500 to 447.595, including any income or increment thereon, and deducting any lawful charges, that is held or owing in this state in the ordinary course of the holder's business and has remained unclaimed by the owner for more than seven years or five years as provided in section 447.536 after it became payable or distributable is presumed abandoned. Intangible personal property where the property is held in a jurisdiction in which the abandonment presumption is less than seven years or five years as provided in section 447.536 shall be accepted by the state of Missouri.

2. Notwithstanding any provision to the contrary, any outstanding check, draft, credit balance, customer's overpayment, or unidentified remittance issued to a business entity or association as part of a commercial transaction in the ordinary course of a holder's business shall not be presumed abandoned if the holder and such business entity or association have an ongoing business relationship. An ongoing business relationship shall be deemed to exist if the holder has engaged in a commercial, business, or professional transaction involving the sale, lease, license, or purchase of goods or services with the

business entity or association or a predecessor-in-interest of the business entity or association within the dormancy period immediately following the date of the check, draft, credit balance, customer's overpayment, or unidentified remittance giving rise to the unclaimed property interest. As used in this subsection, "dormancy period" means the period during which the holder may hold the property interest before it is presumed to be abandoned. A "predecessor-in-interest" is a person or entity whose interest in a business entity or association was acquired by its successor-in-interest, whether by purchase of the business ownership interest, purchase of business assets, statutory merger or consolidation, and includes successive acquisitions by whatever means accomplished.

447.536. ABANDONMENT PERIOD, EFFECTIVE WHEN — EXCEPTION FOR PAYROLL CHECKS. — Except for the abandonment period for travelers checks and money orders provided for in subdivision (3) of section 447.505; the abandonment period for dissolution of business associations, banking organizations and financial organizations as provided for in section 447.527; and the abandonment period for court-related bond proceeds as provided for in section 447.595; all other abandonment periods referenced in sections 447.505 to 447.595, shall change from seven to five years beginning January 1, 2000**, with the exception of payroll checks which shall have the abandonment period reduced from five years to three years beginning January 1, 2015**. The abandonment periods provision of this section shall not apply to property which is held pursuant to any resolution, order or trust indenture entered into prior to August 28, 1998, by a city, county, school district, authority, agency or other political subdivision where the abandonment period or other abandonment provision specified in the resolution, order or trust indenture is different than the abandonment period specified in this section.

447.547. LAW OF ABANDONED PROPERTY NOT APPLICABLE, WHEN. — 1. Sections 447.500 to 447.595 shall not affect property the title to which is vested in a holder by the operation of a statute of limitations prior to August 13, 1984, nor to any property held in a fiduciary capacity that was unclaimed property prior to August 13, 1974. This subsection shall not apply to property the title to which is vested in the holder when the holder is a federal, state, or local government or governmental subdivision, agency, entity, officer, or appointee thereof.

2. Payment and delivery of unclaimed property to the treasurer is not barred by statutes of limitations when title to the property has not vested in the holder prior to August 13, 1984.

3. Sections 447.500 to 447.595 shall not apply to final orders, judgments or decrees of distribution or to abandoned property entered by the probate division of the circuit court after August 13, 1984.

4. Sections 447.500 to 447.595 shall not apply to institutions chartered pursuant to the provisions of an act of the Congress of the United States known as the Farm Credit Act of 1971 and acts amendatory thereto.

5. In addition to other exclusions, sections 447.500 to 447.595 shall not apply to any property that had been unclaimed prior to January 1, 1965, where the holder is a financial organization or banking organization which has a principal place of business in this state.

6. Business credits between two business entities or two business associations are not subject to sections 447.500 to 447.595.

447.548. REPORTABLE PERIODS, NO ENFORCEMENT AFTER THREE YEARS, WHEN — FRAUDULENT REPORT, ENFORCEMENT FOR SIX YEARS. — 1. The state treasurer shall not enforce this chapter for a reportable period more than three years after the holder:

(1) Filed a report with the state treasurer; or

(2) Gave express notice to the state treasurer of a dispute under this chapter.

2. If a fraudulent report is filed with the intent to evade escheatment of property, the state treasurer may enforce this chapter within six years after the report was filed.

3. If no report is filed, the state treasurer may enforce this chapter at any time.

447.560. RECORD OF PROPERTY, CONTENT — RETAINED FOR PUBLIC INSPECTION — INFORMATION NOT PUBLIC RECORD, WHEN — PUBLIC RECORD, WHEN — PENALTY FOR DISCLOSURE — MILITARY MEDALS, PROCEDURE — UNITED STATES SAVINGS BONDS, PROCEDURE. — 1. The treasurer shall retain a record of the name and last known address of each person appearing from the holders' reports to be entitled to the abandoned moneys and property and of the name and last known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of a life insurance corporation, its number, the name of the corporation, and the amount due. The record shall be available for public inspection at all reasonable business hours.

2. Except as specifically provided by this section, no information furnished to the treasurer in the holder reports, including Social Security numbers or other identifying information, shall be open to public inspection or made public. Any officer, employee or agent of the treasurer who, in violation of the provisions of this section, divulges, discloses or permits the inspection of such information shall be guilty of a misdemeanor.

3. If an amount is turned over to the state that is less than fifty dollars, the amount reported may be made available as public information, along with the name and last known address of the person appearing from the holder report to be entitled to the abandoned moneys; except that, no additional information other than provided for in this section may be released, and any individual other than the person appearing from the holder report to be entitled to the abandoned moneys shall be governed by sections 447.500 to 447.595 and other applicable Missouri law in his or her use or dissemination of such information.

4. If the abandoned property is a military medal, the treasurer is authorized to make any information, other than Social Security numbers, contained in the holder report and record under subsection 1 of this section, and any photograph or other visual depiction of the military medal available to the public in order to facilitate the identification of the original owner or such owner's respective heirs or beneficiaries as described under subdivision (4) of section 447.559.

5. The treasurer shall retain a record of the name and, if known, the last known address of each person named on the United States savings bonds which have escheated to the state of Missouri and which have been redeemed by the treasurer under section 447.534. The record shall be made public and available for public inspection at all reasonable business hours. In addition, if a United States savings bond is redeemed in an amount that is less than fifty dollars, the amount redeemed may be made available as public information. No other information furnished to the treasurer in regard to such United States savings bonds, including Social Security numbers or other identifying information shall be open to public inspection or made public. Any officer, employee or agent of the treasurer who, in violation of the provisions of this section, divulges, discloses, or permits the inspection of such information shall be guilty of a misdemeanor.

447.569. APPEAL OF TREASURER'S DECISION OR FAILURE TO ACT, WHEN — REPORT FILED, DEEMED CONTESTED CASE. — **1.** Any **[**person**] claimant** aggrieved by a decision of the treasurer or as to whose claim the treasurer has failed to act within ninety days after the filing of a claim shall be entitled to a hearing under the provisions of chapter 536, and the proceedings instituted by him shall be deemed a contested case under chapter 536.

2. Any holder who has filed a report under section 447.539 aggrieved by a decision of the treasurer shall be entitled to a hearing under the provisions of chapter 536, and the proceedings instituted by such holder shall be deemed a contested case under chapter 536.

447.584. AGREEMENTS — PROPERTY HELD BY BUSINESS ENTITIES IN OTHER STATES OR GOVERNMENTAL ENTITIES — TREASURER, DUTIES — FEES. — The treasurer, with the approval of the governor, may enter into agreements with any person, firm or corporation to

assist in the identification, collection, and processing of abandoned **or escheated** property held by any business entity domiciled and located in another state **or any governmental entity**. The treasurer may agree to pay a fee for such services based in whole or in part on a percentage of the value of any property received pursuant to such agreements. Any expenses paid pursuant to this section may not be deducted from the amount subject to claim **[**by the owner**]** under sections 447.500 to 447.595.

SECTION B. EMERGENCY CLAUSE. — Because of the need to protect the interests of the state, the repeal and reenactment of sections 447.560 and 447.584, and the enactment of section 447.534 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of sections 447.560 and 447.584, and the enactment of section 447.534 of this act shall be in full force and effect upon its passage and approval.

Approved July 8, 2014

HB 1079 [HCS HB 1079]

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

Changes the laws regarding insurance documents

AN ACT to repeal sections 379.011 and 379.012, RSMo, and to enact in lieu thereof two new sections relating to insurance documents.

SECTION

A. Enacting clause.
379.011. Documents required for insurance transactions or proof of coverage by electronic means permitted, when, requirements — inapplicability.
379.012. Insurance forms and endorsements may be available on insurer's website, when, requirements — rulemaking authority.

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

SECTION A. ENACTING CLAUSE. — Sections 379.011 and 379.012, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 379.011 and 379.012, to read as follows:

379.011. DOCUMENTS REQUIRED FOR INSURANCE TRANSACTIONS OR PROOF OF COVERAGE BY ELECTRONIC MEANS PERMITTED, WHEN, REQUIREMENTS — INAPPLICABILITY. — 1. As used in this section, the following terms mean:

(1) "Delivered by electronic means", includes delivery to an electronic mail address at which a party has consented to receive notices or documents, or posting on an electronic network or site accessible via the internet, mobile application, computer, mobile device, tablet, or any other electronic device, together with a separate notice to a party directed to the electronic mail address at which the party has consented to receive notice of the posting;

(2) "Party", any recipient of any notice or document required as part of an insurance transaction, including but not limited to an applicant, an insured or a policyholder.

2. Subject to subsection 3 of this section, any notice to a party or any other document required under applicable law in an insurance transaction or that is to serve as evidence of

insurance coverage may be delivered, stored, and presented by electronic means so long as it meets the requirements of sections 432.200 to 432.295. Delivery of a notice or document in accordance with this subsection shall be considered equivalent to any delivery method required under applicable law, including delivery by first class mail, first class mail postage prepaid, certified mail, or certificate of mailing.

3. A notice or document may be delivered by electronic means by an insurer to a party under this subsection if:

(1) The party has affirmatively consented to that method of delivery and has not withdrawn the consent;

(2) The party, before giving consent, is provided with a clear and conspicuous statement informing the party of:

(a) Any right or option to have the notice or document provided in paper or another nonelectronic form at no additional cost;

(b) The right of party to withdraw consent to have a notice or document delivered by electronic means;

(c) Whether the party's consent applies only to the particular transaction as to which the notice or document must be given or to identified categories of notices or documents that may be delivered by electronic means during the course of the parties' relationship;

(d) The means, after consent is given, by which a party may obtain a paper copy of a notice or document delivered by electronic means at no additional cost; and

(e) The procedure a party must follow to withdraw consent to have a notice or document delivered by electronic means and to update information needed to contact the party electronically;

(3) The party, before giving consent, is provided with a statement of the hardware and software requirements for access to and retention of a notice or document delivered by electronic means and consents electronically, and confirms consent electronically, in a manner that reasonably demonstrates that the party can access information in the electronic form that will be used for notices or documents delivered by electronic means as to which the party has given consent; and

(4) After consent of the party is given, the insurer, in the event a change in the hardware or software requirements needed to access or retain a notice or document delivered in electronic means creates a material risk that the party will not be able to access or retain a subsequent notice or document to which the consent applies:

(a) Provides the party with a statement of the revised hardware and software requirements for access to and retention of a notice or document delivered by electronic means and of the right of the party to withdraw consent pursuant to paragraph (b) of subdivision (2) of this subsection; and

(b) Complies with subdivision (2) of this subsection.

4. This section does not affect requirements relating to content or timing of any notice or document required under applicable law. If any provision of applicable law requiring a notice or document to be provided to a party expressly requires verification or acknowledgment of receipt of the notice or document, the notice or document may be delivered by electronic means only if the method used provides for verification or acknowledgment of receipt. Absent verification or acknowledgment of receipt of the initial notice or document on the part of the party, the insurer shall send two subsequent notices or documents at intervals of five business days. The legal effectiveness, validity, or enforceability of any contract or policy of insurance executed by a party may not be made contingent upon obtaining electronic consent or confirmation of consent of the party in accordance with subdivision (3) of subsection 3 of this section.

5. A withdrawal of consent by a party does not affect the legal effectiveness, validity, or enforceability of a notice or document delivered by electronic means to the party before the withdrawal of consent is effective. A withdrawal of consent by a party is effective within thirty

days after receipt of the withdrawal by the insurer. Failure by an insurer to comply with subdivision (4) of subsection 3 of this section may be treated, at the election of the party, as a withdrawal of consent for purposes of this section.

6. This section does not apply to a notice or document delivered by an insurer in an electronic form before August 28, 2013, to a party who, before that date, has consented to receive notices or documents in an electronic form otherwise allowed by law. If the consent of a party to receive certain notices or documents in an electronic form is on file with an insurer before August 28, 2013, and pursuant to this section, an insurer intends to deliver additional notices or documents to such party in an electronic form, then prior to delivering such additional notices or documents electronically, the insurer shall notify the party of:

(1) The notices or documents that may be delivered by electronic means under this section that were not previously delivered electronically; and

(2) The party's right to withdraw consent to have notices or documents delivered by electronic means.

7. A party who does not consent to delivery of notices or documents under subsection 3 of this section, or who withdraws their consent, shall not be subject to any additional fees or costs for having notices or documents provided or made available to them in paper or another nonelectronic form.

8. If any provision of applicable law requires a signature or notice or document to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by the provision, is attached to or logically associated with the signature, notice, or document.

9. This section may not be construed to modify, limit, or supercede the provisions of sections **354.442, 376.1450, or** 432.200 to 432.295**, RSMo**. **The provisions of this section shall apply to notices and documents issued by insurers organized under chapter 379 or 380, RSMo, and to notices and documents relating to life insurance products issued by insurers organized under chapter 376, RSMo.**

10. Nothing in this section shall prevent an insurer from offering a discount to an insured who elects to receive notices and documents electronically in accordance with this section.

379.012. INSURANCE FORMS AND ENDORSEMENTS MAY BE AVAILABLE ON INSURER'S WEBSITE, WHEN, REQUIREMENTS — RULEMAKING AUTHORITY. — 1. In addition to and notwithstanding any other provisions or requirements of section 379.011 to the contrary, insurance policy forms and endorsements for **[**property**]** insurance as described in subdivisions (1), (2), (3), and (5) of subsection 1 of section 379.010 issued or renewed in this state, or covering risks in this state, which do not contain personally identifiable information, may be made available electronically on the insurer's website in lieu of mailing or delivering a paper copy of policy forms and endorsements to an insured. **Any insurer, including an insurer organized under chapter 380, RSMo, issuing any insurance of the types described in this section may make policy forms and endorsements available electronically on the insurer's website in the manner prescribed herein.**

2. If the insurer elects to make such insurance policy forms and endorsements available electronically on the insurer's website in lieu of mailing or delivering a paper copy to the insured, it shall comply with all the following conditions with respect to such policy forms and endorsements:

(1) The policy forms and endorsements issued or sold in this state shall be easily and publicly accessible on the insurer's website and remain that way for as long as the policy form or endorsement is in force or actively sold in this state;

(2) The insurer shall retain and store the policy forms and endorsements after they are withdrawn from use or replaced with other policy forms and endorsements for a period of five years and make them available to insureds and former insureds upon request and at no cost;

(3) The policy forms and endorsements shall be available on the insurer's website in an electronic format that enables the insured to print and save the policy forms and endorsements using programs or applications that are widely available on the internet and free to use;

(4) At policy issuance and renewal, the insurer shall provide clear and conspicuous notice to the insured, in the manner it customarily communicates with an insured, that it does not intend to mail or deliver a paper copy of the policy forms or documents. The notice shall provide instructions on how the insured may access the policy forms and endorsements on the insurer's website. The insurer shall also notify the insured of their right to obtain a paper copy of the policy forms and endorsements at no cost and provide either a toll-free telephone number or the telephone number of the insured's producer by which the insured can make this request;

(5) At policy renewal, the insurer shall provide clear and conspicuous notice to the insured, in the manner it customarily communicates with an insured, of any changes which have been made to the policy forms or endorsements since the prior coverage period. Such notice shall be made in accordance with the requirements of subdivision (4) of this subsection; and

(6) On each declarations page, or similar coverage summary document, issued to an insured, the insurer shall clearly identify the exact policy forms and endorsements purchased by the insured, so that the insured may easily access those forms on the insurer's website.

3. The director may promulgate any rules necessary to implement and administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2013, shall be invalid and void.

Approved June 5, 2014

HB 1081 [HB 1081]

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

Creates the Paperless Documents and Forms Act

AN ACT to amend chapter 32, RSMo, by adding thereto two new sections relating to paperless communications.

SECTION

A. Enacting clause.
32.029. Paperless documents and forms act — department to make documents and forms available electronically — limitations.
32.400. Department may use electronic means to notify persons regarding licensing and tax collection, requirements.

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

SECTION A. ENACTING CLAUSE. — Chapter 32, RSMo, is amended by adding thereto two new sections, to be known as sections 32.029 and 32.400, to read as follows:

32.029. PAPERLESS DOCUMENTS AND FORMS ACT — DEPARTMENT TO MAKE DOCUMENTS AND FORMS AVAILABLE ELECTRONICALLY — LIMITATIONS — 1. This act shall be known and may be cited as the "Paperless Documents and Forms Act".

2. Beginning no later than January 1, 2015, the department of revenue shall, by January 1, 2021, develop and implement a method by which all documents and forms provided to the public by the department, as well as any records, reports, returns, or other documents required by the department relating to taxes imposed under chapters 142, 143, 144, and 149, and fees imposed under sections 260.262 and 260.273, are available in an electronic format online and are capable of electronic submission to the department. This section shall not be construed to prohibit the submission of paper forms to the department or to require the department to allow electronic filing of a form that requires a notary or authorization by a third party in order to be effective, or when any other document associated with the form, either expressly or by implication, requires a third party to notarize, authorize, or issue the document. Notwithstanding any other provision of law to the contrary, no electronic form shall be invalid solely because a paper version of the form has been incorporated or otherwise referenced in a rule.

3. This section shall not authorize the creation of state-run electronic tax filing of individual income tax returns.

32.400. PAPERLESS DOCUMENTS AND FORMS ACT — DEPARTMENT TO MAKE DOCUMENTS AND FORMS AVAILABLE ELECTRONICALLY — LIMITATIONS — 1. For the purposes of this section, "electronic means" shall mean, but is not limited to, electronic mail or a secure site maintained by the state of Missouri for such purpose.

2. Notwithstanding any other provision of law, the director of the department of revenue may notify persons and their authorized representative using electronic means to fulfill the duties and functions of the department of revenue relating to the administration of motor vehicle licensing, driver licensing, and collection of all taxes and fees payable to the state as provided by law. Any statutory requirements for the department of revenue to provide notification to any person are satisfied by electronic means when the person has agreed to such notification and the electronic notification is sent by the electronic means specified by the person.

3. The requirement of certified mailing as used in those sections relating to the administration of motor vehicle licensing, driver licensing, and collection of all taxes and fees payable to the state as provided by law is satisfied by use of electronic means if the taxpayer or license holder has agreed to such notification and the electronic notification is sent by the electronic means specified by the person.

4. The director of the department of revenue may promulgate rules and regulations to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2014, shall be invalid and void.

Approved June 10, 2014

HB 1085 [HCS HB 1085]

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

Expands library record privacy to include digital resources and materials, adds a third party contracted by a library to list of those who cannot release a library record

AN ACT to repeal sections 182.815 and 182.817, RSMo, and to enact in lieu thereof two new sections relating to the disclosure of library records.

SECTION
A. Enacting clause.
182.815. Disclosure of library records, definitions.
182.817. Disclosure of library records not required — exceptions — complaint may be filed for compromised privacy, procedure.

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

SECTION A. ENACTING CLAUSE. — Sections 182.815 and 182.817, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 182.815 and 182.817, to read as follows:

182.815. DISCLOSURE OF LIBRARY RECORDS, DEFINITIONS. — As used in this section and section 182.817, the following terms shall mean:

(1) **"Digital resource or material", any E-book, digital periodical, digital thesis, digital dissertation, digital report, application, website, database, or other data available in digital format from a library for display on a computer screen or handheld device;**

(2) "E-book", any book composed or converted to digital format for display on a computer screen or handheld device;

(3) "Library", any library established by the state or any political subdivision of the state, or combination thereof, by any community college district, or by any college or university, and any private library open to the public;

[(2)**] (4)** "Library material", any book, **E-book, digital resource or material,** document, film, record, art work, or other library property which a patron may use, borrow or request;

[(3)**] (5)** "Library record", any document, record, or other method of storing information retained, received or generated by a library that identifies a person or persons as having requested, used, or borrowed library material, and all other records identifying the names of library users. The term "library record" does not include nonidentifying material that may be retained for the purpose of studying or evaluating the circulation of library material in general.

182.817. DISCLOSURE OF LIBRARY RECORDS NOT REQUIRED — EXCEPTIONS — COMPLAINT MAY BE FILED FOR COMPROMISED PRIVACY, PROCEDURE. — **1.** Notwithstanding the provisions of any other law to the contrary, no library **[**or**] ,** employee or agent of a library**, or third party contracted by a library that receives, transmits, maintains, or stores library records** shall **[**be required to**]** release or disclose a library record or portion of a library record to any person or persons except:

(1) In response to a written request of the person identified in that record, according to procedures and forms giving written consent as determined by the library; or

(2) In response to an order issued by a court of competent jurisdiction upon a finding that the disclosure of such record is necessary to protect the public safety or to prosecute a crime.

2. Any person whose privacy is compromised as a result of an alleged violation of this section may file a written complaint within one hundred eighty days of the alleged violation with the office of the attorney general describing the facts surrounding the alleged violation. Such person may additionally bring a private civil action in the circuit court of the county in which the library is located to recover 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. A prevailing respondent may be awarded attorney fees under this subsection only upon a showing that the case is without foundation.

3. Upon receipt of a complaint filed in accordance with subsection 2 of this section, the attorney general shall review each complaint and may initiate legal action if deemed appropriate.

Approved July 2, 2014

HB 1090 [HCS HB 1090]

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

Allows any Department of Corrections employee who has accrued overtime hours to use those hours as compensatory leave time

AN ACT to repeal section 105.935, RSMo, and to enact in lieu thereof one new section relating to state employees.

SECTION
A. Enacting clause.
105.935. Overtime hours, state employee may choose compensatory leave time, when — payment for overtime, when — corrections employees, options — reports on overtime paid — overtime earned under Fair Labor Standards Act, applicability.

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

SECTION A. ENACTING CLAUSE. — Section 105.935, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 105.935, to read as follows:

105.935. OVERTIME HOURS, STATE EMPLOYEE MAY CHOOSE COMPENSATORY LEAVE TIME, WHEN — PAYMENT FOR OVERTIME, WHEN — CORRECTIONS EMPLOYEES, OPTIONS — REPORTS ON OVERTIME PAID — OVERTIME EARNED UNDER FAIR LABOR STANDARDS ACT, APPLICABILITY. — 1. Any state employee who has accrued any overtime hours may choose to use those hours as compensatory leave time provided that the leave time is available and agreed upon by both the state employee and his or her supervisor.

2. A state employee who is a nonexempt employee pursuant to the provisions of the Fair Labor Standards Act shall be eligible for payment of overtime in accordance with subsection **[4] 5** of this section. A nonexempt state employee who works on a designated state holiday shall be granted equal compensatory time off duty or shall receive, at his or her choice, the employee's straight time hourly rate in cash payment. A nonexempt state employee shall be paid in cash for overtime unless the employee requests compensatory time off at the applicable overtime rate. As used in this section, the term "state employee" means any person who is employed by the state and earns a salary or wage in a position normally requiring the actual performance by him or her of duties on behalf of the state, but shall not include any employee who is exempt under the provisions of the Fair Labor Standards Act or any employee of the general assembly.

3. Beginning on January 1, 2006, and annually thereafter each department shall pay all nonexempt state employees in full for any overtime hours accrued during the previous calendar year which have not already been paid or used in the form of compensatory leave time. All nonexempt state employees shall have the option of retaining up to a total of eighty compensatory time hours.

4. Missouri department of corrections employees classified as a corrections officer I or a corrections officer II who have accrued any overtime hours may choose to use those hours as compensatory leave time, provided that the leave time is available and agreed on

by such employee and his or her supervisor. Compensatory time shall be considered accrued on completion of time worked in excess of such employee's normal assigned shift and it will be the employee's decision whether to take the time off or request payment for such hours. All employees classified as a corrections officer I or a corrections officer II shall have the right to retain up to eighty hours of compensatory time at any time during the year.

[4.**]** **5.** The provisions of subsection 2 of this section shall only apply to nonexempt state employees who are otherwise eligible for compensatory time under the Fair Labor Standards Act, excluding employees of the general assembly. Any nonexempt state employee requesting cash payment for overtime worked shall notify such employee's department in writing of such decision and state the number of hours, no less than twenty, for which payment is desired. The department shall pay the employee within the calendar month following the month in which a valid request is made. Nothing in this section shall be construed as creating a new compensatory benefit for state employees.

[5.**]** **6.** Each department shall, by November first of each year, notify the commissioner of administration, the house budget committee chair, and the senate appropriations committee chair of the amount of overtime paid in the previous fiscal year and an estimate of overtime to be paid in the current fiscal year. The fiscal year estimate for overtime pay to be paid by each department shall be designated as a separate line item in the appropriations bill for that department. The provisions of this subsection shall become effective July 1, 2005.

[6.**]** **7.** Each state department shall report quarterly to the house of representatives budget committee chair, the senate appropriations committee chair, and the commissioner of administration the cumulative number of accrued overtime hours for department employees, the dollar equivalent of such overtime hours, the number of authorized full-time equivalent positions and vacant positions, the amount of funds for any vacant positions which will be used to pay overtime compensation for employees with full-time equivalent positions, and the current balance in the department's personal service fund.

[7.**]** **8.** This section is applicable to overtime earned under the Fair Labor Standards Act. This section is applicable to employees who are employed in nonexempt positions providing direct client care or custody in facilities operating on a twenty-four-hour seven-day-a-week basis in the department of corrections, the department of mental health, the division of youth services of the department of social services, and the veterans commission of the department of public safety.

Approved June 10, 2014

HB 1092 [SCS HB 1092]

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

Changes the laws regarding child protection

AN ACT to repeal sections 21.771, 37.710, 210.145, 210.152, 210.160, 210.183, 334.950, and 431.056, RSMo, and to enact in lieu thereof nine new sections relating to child protection, with an existing penalty provision.

SECTION

A. Enacting clause.
21.771. Joint committee established, members, duties, meetings — expiration date.
37.710. Access to information — authority of office — confidentiality of information.

210.145. Telephone hotline for reports on child abuse — division duties, protocols, law enforcement contacted immediately, investigation conducted, when, exception — chief investigator named — family support team meetings, who may attend — reporter's right to receive information — admissibility of reports in custody cases.
210.152. Reports of abuse or neglect — division to retain certain information — confidential, released only to authorized persons — report removal, when — notice of agency's determination to retain or remove, sent when — case reopened, when — administrative review of determination — de novo judicial review.
210.160. Guardian ad litem, how appointed — when — fee — volunteer advocates may be appointed to assist guardian — training program.
210.183. Alleged perpetrator to be provided written description of investigation process.
334.950. Collaboration between providers and medical resource centers — definitions — recommendations — rulemaking authority, SAFE CARE providers.
431.056. Minor's ability to contract for certain purposes — conditions.
1. Foster parent standing for court proceedings.

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

SECTION A. ENACTING CLAUSE. — Sections 21.771, 37.710, 210.145, 210.152, 210.160, 210.183, 334.950, and 431.056, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 21.771, 37.710, 210.145, 210.152, 210.160, 210.183, 334.950, 431.056, and 1 to read as follows:

21.771. JOINT COMMITTEE ESTABLISHED, MEMBERS, DUTIES, MEETINGS — EXPIRATION DATE. — 1. There is established a joint committee of the general assembly to be known as the "Joint Committee on Child Abuse and Neglect" to be composed of seven members of the senate and seven members of the house of representatives. The senate members of the joint committee shall be appointed by the president pro tem and minority floor leader of the senate and the house members shall be appointed by the speaker and minority floor leader of the house of representatives. The appointment of each member shall continue during the member's term of office as a member of the general assembly or until a successor has been appointed to fill the member's place. No party shall be represented by more than four members from the house of representatives nor more than four members from the senate. A majority of the committee shall constitute a quorum, but the concurrence of a majority of the members shall be required for the determination of any matter within the committee's duties.

2. The joint committee shall:

(1) Make a continuing study and analysis of the state child abuse and neglect reporting and investigation system;

(2) Devise a plan for improving the structured decision making regarding the removal of a child from a home;

(3) Determine the additional personnel and resources necessary to adequately protect the children of this state and improve their welfare and the welfare of families;

(4) Address the need for additional foster care homes and to improve the quality of care provided to abused and neglected children in the custody of the state;

(5) Determine from its study and analysis the need for changes in statutory law; **[**and**]**

(6) Make any other recommendation to the general assembly necessary to provide adequate protections for the children of our state**; and**

(7) Make recommendations on how to improve abuse and neglect proceedings including examining the role of the judge, children's division, the juvenile officer, the guardian ad litem, and the foster parents.

3. The joint committee shall meet within thirty days after its creation and organize by selecting a chairperson and a vice chairperson, one of whom shall be a member of the senate and the other a member of the house of representatives. The chairperson shall alternate between members of the house and senate every two years after the committee's organization.

4. The committee shall meet at least quarterly. The committee may meet at locations other than Jefferson City when the committee deems it necessary.

5. The committee shall be staffed by legislative personnel as is deemed necessary to assist the committee in the performance of its duties.

6. The members of the committee shall serve without compensation but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their official duties.

7. It shall be the duty of the committee to compile a full report of its activities for submission to the general assembly. The report shall be submitted not later than the fifteenth of January of each year in which the general assembly convenes in regular session and shall include any recommendations which the committee may have for legislative action as well as any recommendations for administrative or procedural changes in the internal management or organization of state or local government agencies and departments. Copies of the report containing such recommendations shall be sent to the appropriate directors of state or local government agencies or departments included in the report.

8. The provisions of this section shall expire on January 15, 2018.

37.710. ACCESS TO INFORMATION — AUTHORITY OF OFFICE — CONFIDENTIALITY OF INFORMATION. — 1. The office shall have access to the following information:

(1) The names and physical location of all children in protective services, treatment, or other programs under the jurisdiction of the children's division, the department of mental health, and the juvenile court;

(2) All written reports of child abuse and neglect; and

(3) All current records required to be maintained pursuant to chapters 210 and 211.

2. The office shall have the authority:

(1) To communicate privately by any means possible with any child under protective services and anyone working with the child, including the family, relatives, courts, employees of the department of social services and the department of mental health, and other persons or entities providing treatment and services;

(2) To have access, including the right to inspect, copy and subpoena records held by the clerk of the juvenile or family court, juvenile officers, law enforcement agencies, institutions, public or private, and other agencies, or persons with whom a particular child has been either voluntarily or otherwise placed for care, or has received treatment within this state or in another state;

(3) To work in conjunction with juvenile officers and guardians ad litem;

(4) To file any findings or reports of the child advocate regarding the parent or child with the court, and issue recommendations regarding the disposition of an investigation, which may be provided to the court and to the investigating agency;

(5) To file amicus curiae briefs on behalf of the interests of the parent or child**, or to file such pleadings necessary to intervene on behalf of the child at the appropriate judicial level using the resources of the office of the attorney general**;

(6) To initiate meetings with the department of social services, the department of mental health, the juvenile court, and juvenile officers;

(7) To take whatever steps are appropriate to see that persons are made aware of the services of the child advocate's office, its purpose, and how it can be contacted;

(8) To apply for and accept grants, gifts, and bequests of funds from other states, federal, and interstate agencies, and independent authorities, private firms, individuals, and foundations to carry out his or her duties and responsibilities. The funds shall be deposited in a dedicated account established within the office to permit moneys to be expended in accordance with the provisions of the grant or bequest;

(9) Subject to appropriation, to establish as needed local panels on a regional or county basis to adequately and efficiently carry out the functions and duties of the office, and address complaints in a timely manner; and

(10) To mediate between alleged victims of sexual misconduct and school districts or charter schools as provided in subsection 1 of section 160.262.

3. For any information obtained from a state agency or entity under sections 37.700 to 37.730, the office of child advocate shall be subject to the same disclosure restrictions and confidentiality requirements that apply to the state agency or entity providing such information to the office of child advocate. For information obtained directly by the office of child advocate under sections 37.700 to 37.730, the office of child advocate shall be subject to the same disclosure restrictions and confidentiality requirements that apply to the children's division regarding information obtained during a child abuse and neglect investigation resulting in an unsubstantiated report.

210.145. TELEPHONE HOTLINE FOR REPORTS ON CHILD ABUSE — DIVISION DUTIES, PROTOCOLS, LAW ENFORCEMENT CONTACTED IMMEDIATELY, INVESTIGATION CONDUCTED, WHEN, EXCEPTION — CHIEF INVESTIGATOR NAMED — FAMILY SUPPORT TEAM MEETINGS, WHO MAY ATTEND — REPORTER'S RIGHT TO RECEIVE INFORMATION — ADMISSIBILITY OF REPORTS IN CUSTODY CASES. — 1. The division shall develop protocols which give priority to:

(1) Ensuring the well-being and safety of the child in instances where child abuse or neglect has been alleged;

(2) Promoting the preservation and reunification of children and families consistent with state and federal law;

(3) Providing due process for those accused of child abuse or neglect; and

(4) Maintaining an information system operating at all times, capable of receiving and maintaining reports. This information system shall have the ability to receive reports over a single, statewide toll-free number. Such information system shall maintain the results of all investigations, family assessments and services, and other relevant information.

2. The division shall utilize structured decision-making protocols for classification purposes of all child abuse and neglect reports. The protocols developed by the division shall give priority to ensuring the well-being and safety of the child. All child abuse and neglect reports shall be initiated within twenty-four hours and shall be classified based upon the reported risk and injury to the child. The division shall promulgate rules regarding the structured decision-making protocols to be utilized for all child abuse and neglect reports.

3. Upon receipt of a report, the division shall determine if the report merits investigation, including reports which if true would constitute a suspected violation of any of the following: section 565.020, 565.021, 565.023, 565.024, or 565.050 if the victim is a child less than eighteen years of age, section 566.030 or 566.060 if the victim is a child less than eighteen years of age, or other crimes under chapter 566 if the victim is a child less than eighteen years of age and the perpetrator is twenty-one years of age or older, section 567.050 if the victim is a child less than eighteen years of age, section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, or 568.090, section 573.025, 573.035, 573.037, or 573.040, or an attempt to commit any such crimes. The division shall immediately communicate all reports that merit investigation to its appropriate local office and any relevant information as may be contained in the information system. The local division staff shall determine, through the use of protocols developed by the division, whether an investigation or the family assessment and services approach should be used to respond to the allegation. The protocols developed by the division shall give priority to ensuring the well-being and safety of the child.

4. When the child abuse and neglect hotline receives three or more calls, within a seventy-two hour period, from one or more individuals concerning the same child, the division shall conduct a review to determine whether the calls meet the criteria and statutory definition for a child abuse and neglect report to be accepted. In conducting the review, the division shall contact the hotline caller or callers in order to collect information to determine whether the calls meet the criteria for harassment.

5. The local office shall contact the appropriate law enforcement agency immediately upon receipt of a report which division personnel determine merits an investigation and provide such agency with a detailed description of the report received. In such cases the local division office shall request the assistance of the local law enforcement agency in all aspects of the investigation of the complaint. The appropriate law enforcement agency shall either assist the division in the investigation or provide the division, within twenty-four hours, an explanation in writing detailing the reasons why it is unable to assist.

6. The local office of the division shall cause an investigation or family assessment and services approach to be initiated in accordance with the protocols established in subsection 2 of this section, except in cases where the sole basis for the report is educational neglect. If the report indicates that educational neglect is the only complaint and there is no suspicion of other neglect or abuse, the investigation shall be initiated within seventy-two hours of receipt of the report. If the report indicates the child is in danger of serious physical harm or threat to life, an investigation shall include direct observation of the subject child within twenty-four hours of the receipt of the report. Local law enforcement shall take all necessary steps to facilitate such direct observation. Callers to the child abuse and neglect hotline shall be instructed by the division's hotline to call 911 in instances where the child may be in immediate danger. If the parents of the child are not the alleged **[**abusers**]** **perpetrators**, a parent of the child must be notified prior to the child being interviewed by the division. No person responding to or investigating a child abuse and neglect report shall call prior to a home visit or leave any documentation of any attempted visit, such as business cards, pamphlets, or other similar identifying information if he or she has a reasonable basis to believe the following factors are present:

(1) (a) No person is present in the home at the time of the home visit; and

(b) The alleged perpetrator resides in the home or the physical safety of the child may be compromised if the alleged perpetrator becomes aware of the attempted visit;

(2) The alleged perpetrator will be alerted regarding the attempted visit; or

(3) The family has a history of domestic violence or fleeing the community.

If the alleged perpetrator is present during a visit by the person responding to or investigating the report, such person shall provide written material to the alleged perpetrator informing him or her of his or her rights regarding such visit, including but not limited to the right to contact an attorney. The alleged perpetrator shall be given a reasonable amount of time to read such written material or have such material read to him or her by the case worker before the visit commences, but in no event shall such time exceed five minutes; except that, such requirement to provide written material and reasonable time to read such material shall not apply in cases where the child faces an immediate threat or danger, or the person responding to investigating the report is or feels threatened or in danger of physical harm. If the abuse is alleged to have occurred in a school or child care facility the division shall not meet with the child in any school building or child-care facility building where abuse of such child is alleged to have occurred. When the child is reported absent from the residence, the location and the well-being of the child shall be verified. For purposes of this subsection, child care facility shall have the same meaning as such term is defined in section 210.201.

7. The director of the division shall name at least one chief investigator for each local division office, who shall direct the division response on any case involving a second or subsequent incident regarding the same subject child or perpetrator. The duties of a chief investigator shall include verification of direct observation of the subject child by the division and shall ensure information regarding the status of an investigation is provided to the public school district liaison. The public school district liaison shall develop protocol in conjunction with the chief investigator to ensure information regarding an investigation is shared with appropriate school personnel. The superintendent of each school district shall designate a specific person or persons to act as the public school district liaison. Should the subject child attend a nonpublic school the chief investigator shall notify the school principal of the investigation. Upon

notification of an investigation, all information received by the public school district liaison or the school shall be subject to the provisions of the federal Family Educational Rights and Privacy Act (FERPA), 20 U.S.C., Section 1232g, and federal rule 34 C.F.R., Part 99.

8. The investigation shall include but not be limited to the nature, extent, and cause of the abuse or neglect; the identity and age of the person responsible for the abuse or neglect; the names and conditions of other children in the home, if any; the home environment and the relationship of the subject child to the parents or other persons responsible for the child's care; any indication of incidents of physical violence against any other household or family member; and other pertinent data.

9. When a report has been made by a person required to report under section 210.115, the division shall contact the person who made such report within forty-eight hours of the receipt of the report in order to ensure that full information has been received and to obtain any additional information or medical records, or both, that may be pertinent.

10. Upon completion of the investigation, if the division suspects that the report was made maliciously or for the purpose of harassment, the division shall refer the report and any evidence of malice or harassment to the local prosecuting or circuit attorney.

11. Multidisciplinary teams shall be used whenever conducting the investigation as determined by the division in conjunction with local law enforcement. Multidisciplinary teams shall be used in providing protective or preventive social services, including the services of law enforcement, a liaison of the local public school, the juvenile officer, the juvenile court, and other agencies, both public and private.

12. For all family support team meetings involving an alleged victim of child abuse or neglect, the parents, legal counsel for the parents, foster parents, the legal guardian or custodian of the child, the guardian ad litem for the child, and the volunteer advocate for the child shall be provided notice and be permitted to attend all such meetings. Family members, other than alleged perpetrators, or other community informal or formal service providers that provide significant support to the child and other individuals may also be invited at the discretion of the parents of the child. In addition, the parents, the legal counsel for the parents, the legal guardian or custodian and the foster parents may request that other individuals, other than alleged perpetrators, be permitted to attend such team meetings. Once a person is provided notice of or attends such team meetings, the division or the convenor of the meeting shall provide such persons with notice of all such subsequent meetings involving the child. Families may determine whether individuals invited at their discretion shall continue to be invited.

13. If the appropriate local division personnel determine after an investigation has begun that completing an investigation is not appropriate, the division shall conduct a family assessment and services approach. The division shall provide written notification to local law enforcement prior to terminating any investigative process. The reason for the termination of the investigative process shall be documented in the record of the division and the written notification submitted to local law enforcement. Such notification shall not preclude nor prevent any investigation by law enforcement.

14. If the appropriate local division personnel determines to use a family assessment and services approach, the division shall:

(1) Assess any service needs of the family. The assessment of risk and service needs shall be based on information gathered from the family and other sources;

(2) Provide services which are voluntary and time-limited unless it is determined by the division based on the assessment of risk that there will be a high risk of abuse or neglect if the family refuses to accept the services. The division shall identify services for families where it is determined that the child is at high risk of future abuse or neglect. The division shall thoroughly document in the record its attempt to provide voluntary services and the reasons these services are important to reduce the risk of future abuse or neglect to the child. If the family continues to refuse voluntary services or the child needs to be protected, the division may commence an investigation;

(3) Commence an immediate investigation if at any time during the family assessment and services approach the division determines that an investigation, as delineated in sections 210.109 to 210.183, is required. The division staff who have conducted the assessment may remain involved in the provision of services to the child and family;

(4) Document at the time the case is closed, the outcome of the family assessment and services approach, any service provided and the removal of risk to the child, if it existed.

15. **(1)** Within **[**thirty**]** **forty-five** days of an oral report of abuse or neglect, the local office shall update the information in the information system. The information system shall contain, at a minimum, the determination made by the division as a result of the investigation, identifying information on the subjects of the report, those responsible for the care of the subject child and other relevant dispositional information. The division shall complete all investigations within **[**thirty**]** **forty-five** days, unless good cause for the failure to complete the investigation is **specifically** documented in the information system. **Good cause for failure to complete an investigation shall include, but not be limited to:**

(a) The necessity to obtain relevant reports of medical providers, medical examiners, psychological testing, law enforcement agencies, forensic testing, and analysis of relevant evidence by third parties which has not been completed and provided to the division;

(b) The attorney general or the prosecuting or circuit attorney of the city or county in which a criminal investigation is pending certifies in writing to the division that there is a pending criminal investigation of the incident under investigation by the division and the issuing of a decision by the division will adversely impact the progress of the investigation; or

(c) The child victim, the subject of the investigation or another witness with information relevant to the investigation is unable or temporarily unwilling to provide complete information within the specified time frames due to illness, injury, unavailability, mental capacity, age, developmental disability, or other cause.

The division shall document any such reasons for failure to complete the investigation.

(2) If **[**a child involved in a pending investigation dies**]** **a child fatality or near-fatality is involved in a report of abuse or neglect**, the investigation shall remain open until the division's investigation surrounding **[**the death**]** **such death or near-fatal injury** is completed.

(3) If the investigation is not completed within **[**thirty**]** **forty-five** days, the information system shall be updated at regular intervals and upon the completion of the investigation**, which shall be completed no later than ninety days after receipt of a report of abuse or neglect, or one hundred and twenty days after receipt of a report of abuse or neglect involving sexual abuse, or until the division's investigation is complete in cases involving a child fatality or near-fatality**. The information in the information system shall be updated to reflect any subsequent findings, including any changes to the findings based on an administrative or judicial hearing on the matter.

16. A person required to report under section 210.115 to the division and any person making a report of child abuse or neglect made to the division which is not made anonymously shall be informed by the division of his or her right to obtain information concerning the disposition of his or her report. Such person shall receive, from the local office, if requested, information on the general disposition of his or her report. Such person may receive, if requested, findings and information concerning the case. Such release of information shall be at the discretion of the director based upon a review of the reporter's ability to assist in protecting the child or the potential harm to the child or other children within the family. The local office shall respond to the request within forty-five days. The findings shall be made available to the reporter within five days of the outcome of the investigation. If the report is determined to be unsubstantiated, the reporter may request that the report be referred by the division to the office of child advocate for children's protection and services established in sections 37.700 to 37.730. Upon request by a reporter under this subsection, the division shall refer an unsubstantiated

report of child abuse or neglect to the office of child advocate for children's protection and services.

17. The division shall provide to any individual who is not satisfied with the results of an investigation information about the office of child advocate and the services it may provide under sections 37.700 to 37.730.

18. In any judicial proceeding involving the custody of a child the fact that a report may have been made pursuant to sections 210.109 to 210.183 shall not be admissible. However:

(1) Nothing in this subsection shall prohibit the introduction of evidence from independent sources to support the allegations that may have caused a report to have been made; and

(2) The court may on its own motion, or shall if requested by a party to the proceeding, make an inquiry not on the record with the children's division to determine if such a report has been made. If a report has been made, the court may stay the custody proceeding until the children's division completes its investigation.

19. In any judicial proceeding involving the custody of a child where the court determines that the child is in need of services under paragraph (d) of subdivision (1) of subsection 1 of section 211.031 and has taken jurisdiction, the child's parent, guardian or custodian shall not be entered into the registry.

20. The children's division is hereby granted the authority to promulgate rules and regulations pursuant to the provisions of section 207.021 and chapter 536 to carry out the provisions of sections 210.109 to 210.183.

21. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.

210.152. REPORTS OF ABUSE OR NEGLECT — DIVISION TO RETAIN CERTAIN INFORMATION — CONFIDENTIAL, RELEASED ONLY TO AUTHORIZED PERSONS — REPORT REMOVAL, WHEN — NOTICE OF AGENCY'S DETERMINATION TO RETAIN OR REMOVE, SENT WHEN — CASE REOPENED, WHEN — ADMINISTRATIVE REVIEW OF DETERMINATION — DE NOVO JUDICIAL REVIEW. — 1. All identifying information, including telephone reports reported pursuant to section 210.145, relating to reports of abuse or neglect received by the division shall be retained by the division and removed from the records of the division as follows:

(1) For investigation reports contained in the central registry, identifying information shall be retained by the division;

(2) (a) For investigation reports initiated against a person required to report pursuant to section 210.115, where insufficient evidence of abuse or neglect is found by the division and where the division determines the allegation of abuse or neglect was made maliciously, for purposes of harassment or in retaliation for the filing of a report by a person required to report, identifying information shall be expunged by the division within forty-five days from the conclusion of the investigation;

(b) For investigation reports, where insufficient evidence of abuse or neglect is found by the division and where the division determines the allegation of abuse or neglect was made maliciously, for purposes of harassment or in retaliation for the filing of a report, identifying information shall be expunged by the division within forty-five days from the conclusion of the investigation;

(c) For investigation reports initiated by a person required to report under section 210.115, where insufficient evidence of abuse or neglect is found by the division, identifying information shall be retained for five years from the conclusion of the investigation. For all other investigation reports where insufficient evidence of abuse or neglect is found by the division,

identifying information shall be retained for two years from the conclusion of the investigation. Such reports shall include any exculpatory evidence known by the division, including exculpatory evidence obtained after the closing of the case. At the end of such time period, the identifying information shall be removed from the records of the division and destroyed;

(3) For reports where the division uses the family assessment and services approach, identifying information shall be retained by the division;

(4) For reports in which the division is unable to locate the child alleged to have been abused or neglected, identifying information shall be retained for ten years from the date of the report and then shall be removed from the records of the division.

2. Within ninety days**, or within one hundred twenty days in cases involving sexual abuse, or until the division's investigation is complete in cases involving a child fatality or near-fatality**, after receipt of a report of abuse or neglect that is investigated, the alleged perpetrator named in the report and the parents of the child named in the report, if the alleged perpetrator is not a parent, shall be notified in writing of any determination made by the division based on the investigation. The notice shall advise either:

(1) That the division has determined by a probable cause finding prior to August 28, 2004, or by a preponderance of the evidence after August 28, 2004, that abuse or neglect exists and that the division shall retain all identifying information regarding the abuse or neglect; that such information shall remain confidential and will not be released except to law enforcement agencies, prosecuting or circuit attorneys, or as provided in section 210.150; that the alleged perpetrator has sixty days from the date of receipt of the notice to seek reversal of the division's determination through a review by the child abuse and neglect review board as provided in subsection 4 of this section; or

(2) That the division has not made a probable cause finding or determined by a preponderance of the evidence that abuse or neglect exists.

3. The children's division may reopen a case for review at the request of the alleged perpetrator, the alleged victim, or the office of the child advocate if new, specific, and credible evidence is obtained that the division's decision was based on fraud or misrepresentation of material facts relevant to the division's decision and there is credible evidence that absent such fraud or misrepresentation the division's decision would have been different. If the alleged victim is under the age of eighteen, the request for review may be made by the alleged victim's parent, legal custodian, or legal guardian. All requests to reopen an investigation for review shall be made within a reasonable time and not more than one year after the children's division made its decision. The division shall not reopen a case for review based on any information which the person requesting the review knew, should have known, or could by the exercise of reasonable care have known before the date of the division's final decision in the case, unless the person requesting the review shows by a preponderance of the evidence that he or she could not have provided such information to the division before the date of the division's final decision in the case. Any person, other than the office of the child advocate, who makes a request to reopen a case for review based on facts which the person knows to be false or misleading or who acts in bad faith or with the intent to harass the alleged victim or perpetrator shall not have immunity from any liability, civil or criminal, for providing the information and requesting that the division reopen the investigation. Any person who makes a request to reopen an investigation based on facts which the person knows to be false shall be guilty of a class A misdemeanor. The children's division shall not reopen an investigation under any circumstances while the case is pending before a court of this state nor when a court has entered a final judgment after de novo judicial review pursuant to this section.

4. Any person named in an investigation as a perpetrator who is aggrieved by a determination of abuse or neglect by the division as provided in this section may seek an administrative review by the child abuse and neglect review board pursuant to the provisions of section 210.153. Such request for review shall be made within sixty days of notification of the division's decision under this section. In those cases where criminal charges arising out of facts

of the investigation are pending, the request for review shall be made within sixty days from the court's final disposition or dismissal of the charges.

5. In any such action for administrative review, the child abuse and neglect review board shall sustain the division's determination if such determination was supported by evidence of probable cause prior to August 28, 2004, or is supported by a preponderance of the evidence after August 28, 2004, and is not against the weight of such evidence. The child abuse and neglect review board hearing shall be closed to all persons except the parties, their attorneys and those persons providing testimony on behalf of the parties.

6. If the alleged perpetrator is aggrieved by the decision of the child abuse and neglect review board, the alleged perpetrator may seek de novo judicial review in the circuit court in the county in which the alleged perpetrator resides and in circuits with split venue, in the venue in which the alleged perpetrator resides, or in Cole County. If the alleged perpetrator is not a resident of the state, proper venue shall be in Cole County. The case may be assigned to the family court division where such a division has been established. The request for a judicial review shall be made within sixty days of notification of the decision of the child abuse and neglect review board decision. In reviewing such decisions, the circuit court shall provide the alleged perpetrator the opportunity to appear and present testimony. The alleged perpetrator may subpoena any witnesses except the alleged victim or the reporter. However, the circuit court shall have the discretion to allow the parties to submit the case upon a stipulated record.

7. In any such action for administrative review, the child abuse and neglect review board shall notify the child or the parent, guardian or legal representative of the child that a review has been requested.

210.160. GUARDIAN AD LITEM, HOW APPOINTED — WHEN — FEE — VOLUNTEER ADVOCATES MAY BE APPOINTED TO ASSIST GUARDIAN — TRAINING PROGRAM. — 1. In every case involving an abused or neglected child which results in a judicial proceeding, the judge shall appoint a guardian ad litem to appear for and represent:

(1) A child who is the subject of proceedings pursuant to sections 210.110 to 210.165 **except proceedings under subsection 6 of section 210.152**, sections 210.700 to 210.760, sections 211.442 to 211.487, or sections 453.005 to 453.170, or proceedings to determine custody or visitation rights under sections 452.375 to 452.410; or

(2) A parent who is a minor, or who is a mentally ill person or otherwise incompetent, and whose child is the subject of proceedings under sections 210.110 to 210.165, sections 210.700 to 210.760, sections 211.442 to 211.487, or sections 453.005 to 453.170.

2. **The judge, either sua sponte or upon motion of a party, may appoint a guardian ad litem to appear for and represent an abused or neglected child involved in proceedings arising under subsection 6 of section 210.152.**

[2.**]** **3.** The guardian ad litem shall be provided with all reports relevant to the case made to or by any agency or person, shall have access to all records of such agencies or persons relating to the child or such child's family members or placements of the child, and upon appointment by the court to a case, shall be informed of and have the right to attend any and all family support team meetings involving the child. Employees of the division, officers of the court, and employees of any agency involved shall fully inform the guardian ad litem of all aspects of the case of which they have knowledge or belief.

[3.**]** **4.** The appointing judge shall require the guardian ad litem to faithfully discharge such guardian ad litem's duties, and upon failure to do so shall discharge such guardian ad litem and appoint another. The appointing judge shall have the authority to examine the general and criminal background of persons appointed as guardians ad litem, including utilization of the family care safety registry and access line pursuant to sections 210.900 to 210.937, to ensure the safety and welfare of the children such persons are appointed to represent. The judge in making appointments pursuant to this section shall give preference to persons who served as guardian

ad litem for the child in the earlier proceeding, unless there is a reason on the record for not giving such preference.

[4.**]** **5.** The guardian ad litem may be awarded a reasonable fee for such services to be set by the court. The court, in its discretion, may award such fees as a judgment to be paid by any party to the proceedings or from public funds. However, no fees as a judgment shall be taxed against a party or parties who have not been found to have abused or neglected a child or children. Such an award of guardian fees shall constitute a final judgment in favor of the guardian ad litem. Such final judgment shall be enforceable against the parties in accordance with chapter 513.

[5.**]** **6.** The court may designate volunteer advocates, who may or may not be attorneys licensed to practice law, to assist in the performance of the guardian ad litem duties for the court. Nonattorney volunteer advocates shall not provide legal representation. The court shall have the authority to examine the general and criminal background of persons designated as volunteer advocates, including utilization of the family care safety registry and access line pursuant to sections 210.900 to 210.937, to ensure the safety and welfare of the children such persons are designated to represent. The volunteer advocate shall be provided with all reports relevant to the case made to or by any agency or person, shall have access to all records of such agencies or persons relating to the child or such child's family members or placements of the child, and upon designation by the court to a case, shall be informed of and have the right to attend any and all family support team meetings involving the child. Any such designated person shall receive no compensation from public funds. This shall not preclude reimbursement for reasonable expenses.

[6.**]** **7.** Any person appointed to perform guardian ad litem duties shall have completed a training program in permanency planning and shall advocate for timely court hearings whenever possible to attain permanency for a child as expeditiously as possible to reduce the effects that prolonged foster care may have on a child. A nonattorney volunteer advocate shall have access to a court appointed attorney guardian ad litem should the circumstances of the particular case so require.

210.183. ALLEGED PERPETRATOR TO BE PROVIDED WRITTEN DESCRIPTION OF INVESTIGATION PROCESS. — 1. At the time of the initial investigation of a report of child abuse or neglect, the division employee conducting the investigation shall provide the alleged perpetrator with a written description of the investigation process. Such written notice shall be given substantially in the following form:

"The investigation is being undertaken by the Children's Division pursuant to the requirements of chapter 210 of the Revised Missouri Statutes in response to a report of child abuse or neglect.

The identity of the person who reported the incident of abuse or neglect is confidential and may not even be known to the Division since the report could have been made anonymously.

This investigation is required by law to be conducted in order to enable the Children's Division to identify incidents of abuse or neglect in order to provide protective or preventive social services to families who are in need of such services.

The division shall make every reasonable attempt to complete the investigation within **[**thirty days, except if a child involved in the pending investigation dies the investigation shall remain open until the division's investigation surrounding the death is completed.**]** **forty-five days, except for good cause which shall be documented,** otherwise, within ninety days**, or one hundred and twenty days after receipt of a report of abuse or neglect involving sexual abuse, or when the division's investigation is complete in cases involving a child fatality or near-fatality,** you will receive a letter from the Division which will inform you of one of the following:

(1) That the Division has found insufficient evidence of abuse or neglect; or

(2) That there appears to be by a preponderance of the evidence reason to suspect the existence of child abuse or neglect in the judgment of the Division and that the Division will contact the family to offer social services.

If the Division finds by a preponderance of the evidence reason to believe child abuse or neglect has occurred or the case is substantiated by court adjudication, a record of the report and information gathered during the investigation will remain on file with the Division.

If you disagree with the determination of the Division and feel that there is insufficient reason to believe by a preponderance of the evidence that abuse or neglect has occurred, you have a right to request an administrative review at which time you may hire an attorney to represent you. If you request an administrative review on the issue, you will be notified of the date and time of your administrative review hearing by the child abuse and neglect review board. If the Division's decision is reversed by the child abuse and neglect review board, the Division records concerning the report and investigation will be updated to reflect such finding. If the child abuse and neglect review board upholds the Division's decision, an appeal may be filed in circuit court within sixty days of the child abuse and neglect review board's decision."

2. If the division uses the family assessment approach, the division shall at the time of the initial contact provide the parent of the child with the following information:

(1) The purpose of the contact with the family;

(2) The name of the person responding and his or her office telephone number;

(3) The assessment process to be followed during the division's intervention with the family including the possible services available and expectations of the family.

334.950. COLLABORATION BETWEEN PROVIDERS AND MEDICAL RESOURCE CENTERS — DEFINITIONS — RECOMMENDATIONS — RULEMAKING AUTHORITY, SAFE CARE PROVIDERS. — 1. As used in this section, the following terms shall mean:

(1) "Child abuse medical resource centers", medical institutions affiliated with accredited children's hospitals or recognized institutions of higher education with accredited medical school programs that provide training, support, mentoring, and peer review to SAFE CARE providers in Missouri;

(2) "SAFE CARE provider", a physician, advanced practice nurse, or physician's assistant licensed in this state who provides medical diagnosis and treatment to children suspected of being victims of abuse and who receives:

(a) Missouri-based initial intensive training regarding child maltreatment from the SAFE CARE network;

(b) Ongoing update training on child maltreatment from the SAFE CARE network;

(c) Peer review and new provider mentoring regarding the forensic evaluation of children suspected of being victims of abuse from the SAFE CARE network;

(3) "Sexual assault forensic examination child abuse resource education network" or "SAFE CARE network", a network of SAFE CARE providers and child abuse medical resource centers that collaborate to provide forensic evaluations, medical training, support, mentoring, and peer review for SAFE CARE providers for the medical evaluation of child abuse victims in this state to improve outcomes for children who are victims of or at risk for child maltreatment by enhancing the skills and role of the medical provider in a multidisciplinary context.

2. Child abuse medical resource centers may collaborate directly or through the use of technology with SAFE CARE providers to promote improved services to children who are suspected victims of abuse that will need to have a forensic medical evaluation conducted by providing specialized training for forensic medical evaluations for children conducted in a hospital, child advocacy center, or by a private health care professional without the need for a collaborative agreement between the child abuse medical resource center and a SAFE CARE provider.

3. SAFE CARE providers who are a part of the SAFE CARE network in Missouri may collaborate directly or through the use of technology with other SAFE CARE providers and

child abuse medical resource centers to promote improved services to children who are suspected victims of abuse that will need to have a forensic medical evaluation conducted by providing specialized training for forensic medical evaluations for children conducted in a hospital, child advocacy center, or by a private health care professional without the need for a collaborative agreement between the child abuse medical resource center and a SAFE CARE provider.

4. The SAFE CARE network shall develop recommendations concerning medically based screening processes and forensic evidence collection for children who may be in need of an emergency examination following an alleged sexual assault. Such recommendations shall be provided to the SAFE CARE providers, child advocacy centers, hospitals and licensed practitioners that provide emergency examinations for children suspected of being victims of abuse.

5. The department of public safety shall establish rules and make payments to SAFE CARE providers, out of appropriations made for that purpose, who provide forensic examinations of persons under eighteen years of age who are alleged victims of physical abuse.

431.056. MINOR'S ABILITY TO CONTRACT FOR CERTAIN PURPOSES — CONDITIONS. — **1.** A minor shall be qualified and competent to contract for housing, employment, purchase of an automobile, receipt of a student loan, admission to high school or postsecondary school, obtaining medical care, establishing a bank account, admission to a shelter for victims of domestic violence, as defined in section 455.200, or a homeless shelter, and receipt of services as a victim of domestic **[**and**]** **violence or** sexual **[**violence**]** **abuse**, including but not limited to counseling, court advocacy, financial assistance, and other advocacy services, if:

(1) The minor is sixteen or seventeen years of age; and

(2) The minor is homeless, as defined in subsection 1 of section 167.020, or a victim of domestic violence, as defined in section 455.200, unless the child is under the supervision of the children's division or the jurisdiction of the juvenile court; and

(3) The minor is self-supporting, such that the minor is without the physical or financial support of a parent or legal guardian; and

(4) The minor's parent or legal guardian has consented to the minor living independent of the parents' or guardians' control. Consent may be expressed or implied, such that:

(a) Expressed consent is any verbal or written statement made by the parents or guardian of the minor displaying approval or agreement that the minor may live independently of the parent's or guardian's control;

(b) Implied consent is any action made by the parent or guardian of the minor that indicates the parent or guardian is unwilling or unable to adequately care for the minor. Such actions may include, but are not limited to:

a. Barring the minor from the home or otherwise indicating that the minor is not welcome to stay;

b. Refusing to provide any or all financial support for the minor; or

c. Abusing or neglecting the minor, as defined in section 210.110 **or committing an act or acts of domestic violence against the minor, as defined in section 455.010**.

2. A minor who is sixteen years of age or older and who is in the legal custody of the children's division pursuant to an order of a court of competent jurisdiction shall be qualified and competent to contract for the purchase of automobile insurance with the consent of the children's division or the juvenile court. The minor shall be responsible for paying the costs of the insurance premiums and shall be liable for damages caused by his or her negligent operation of a motor vehicle. No state department, foster parent, or entity providing case management of children on behalf of a department shall be responsible for paying any insurance premiums nor liable for any damages of any kind as a result of the operation of a motor vehicle by the minor.

SECTION 1. FOSTER PARENT STANDING FOR COURT PROCEEDINGS. — A foster parent shall have standing to participate in all court hearings pertaining to a child in their care.

Approved July 9, 2014

HB 1125 [HB 1125]

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

Allows a person with a physical disability or a member of the armed forces on active duty filing a declaration of candidacy by certified mail to designate a representative for the ballot order random drawing

AN ACT to repeal sections 115.124 and 115.395, RSMo, and to enact in lieu thereof two new sections relating to elections, with an emergency clause.

SECTION

A. Enacting clause.
115.124. Nonpartisan election in political subdivision or special district, no election required if number of candidates filing is same as number of positions to be filled — exceptions — random drawing filing procedure followed when election is required — municipal elections, certain municipalities may submit requirements of subsection 1 to voters.
115.395. Ballot for each party at primary — candidates, how listed — ballot information, how shown.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 115.124 and 115.395, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 115.124 and 115.395, to read as follows:

115.124. NONPARTISAN ELECTION IN POLITICAL SUBDIVISION OR SPECIAL DISTRICT, NO ELECTION REQUIRED IF NUMBER OF CANDIDATES FILING IS SAME AS NUMBER OF POSITIONS TO BE FILLED — EXCEPTIONS — RANDOM DRAWING FILING PROCEDURE FOLLOWED WHEN ELECTION IS REQUIRED — MUNICIPAL ELECTIONS, CERTAIN MUNICIPALITIES MAY SUBMIT REQUIREMENTS OF SUBSECTION 1 TO VOTERS. — 1. Notwithstanding any other law to the contrary, in a nonpartisan election in any political subdivision or special district except for municipal elections, if the notice provided for in subsection 5 of section 115.127 has been published in at least one newspaper of general circulation in the district, and if the number of candidates who have filed for a particular office is equal to the number of positions in that office to be filled by the election, no election shall be held for such office, and the candidates shall assume the responsibilities of their offices at the same time and in the same manner as if they had been elected. Notwithstanding any other provision of law to the contrary, if at any election the number of candidates filing for a particular office exceeds the number of positions to be filled at such election, the election authority shall hold the election as scheduled, even if a sufficient number of candidates withdraw from such contest for that office so that the number of candidates remaining after the filing deadline is equal to the number of positions to be filled.

2. The election authority or political subdivision responsible for the oversight of the filing of candidates in any nonpartisan election in any political subdivision or special district shall clearly designate where candidates shall form a line to effectuate such filings and determine the order of such filings; except that, in the case of candidates who file a declaration of candidacy

with the election authority or political subdivision prior to 5:00 p.m. on the first day for filing, the election authority or political subdivision may determine by random drawing the order in which such candidates' names shall appear on the ballot. If a drawing is conducted pursuant to this subsection, it shall be conducted so that each candidate**, or candidate's representative if the candidate filed under subsection 2 of section 115.355,** may draw a number at random at the time of filing. If such drawing is conducted, the election authority or political subdivision shall record the number drawn with the candidate's declaration of candidacy. If such drawing is conducted, the names of candidates filing on the first day of filing for each office on each ballot shall be listed in ascending order of the numbers so drawn.

115.395. BALLOT FOR EACH PARTY AT PRIMARY — CANDIDATES, HOW LISTED — BALLOT INFORMATION, HOW SHOWN. — 1. At each primary election, there shall be as many separate ballots as there are parties entitled to participate in the election.

2. The names of the candidates for each office on each party ballot shall be listed in the order in which they are filed, except that, in the case of candidates who file a declaration of candidacy with the secretary of state prior to 5:00 p.m. on the first day for filing, the secretary of state shall determine by random drawing the order in which such candidates' names shall appear on the ballot. The drawing shall be conducted so that each candidate**, or candidate's representative if the candidate filed under subsection 2 of section 115.355,** may draw a number at random at the time of filing. The secretary of state shall record the number drawn with the candidate's declaration of candidacy. The names of candidates filing on the first day for filing for each office on each party ballot shall be listed in ascending order of the numbers so drawn. For the purposes of this subsection, the election authority responsible for oversight of the filing of candidates, other than candidates that file with the secretary of state, shall clearly designate where candidates**, or a candidate's representative if the candidate filed under subsection 2 of section 115.355,** shall form a line to effectuate such filings and determine the order of such filings; except that, in the case of candidates who file a declaration of candidacy with the election authority prior to 5:00 p.m. on the first day for filing, the election authority may determine by random drawing the order in which such candidates' names shall appear on the ballot. If a drawing is conducted pursuant to this subsection, it shall be conducted so that each candidate**, or candidate's representative if the candidate filed under subsection 2 of section 115.355,** may draw a number at random at the time of filing. If such drawing is conducted, the election authority shall record the number drawn with the candidate's declaration of candidacy. If such drawing is conducted, the names of candidates filing on the first day for filing for each office on each party ballot shall be listed in ascending order of the numbers so drawn.

3. Insofar as applicable, the provisions of sections 115.237**[**, 115.241**]** and 115.245 shall apply to each ballot prepared for a primary election, except that the ballot information may be placed in vertical or horizontal rows, no circle shall appear under any party name and no write-in lines shall appear under the name of any office for which a candidate is to be nominated at the primary. At a primary election, write-in votes shall be counted only for persons who can be elected to an office at the primary.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to allow the provisions of this act to apply to the immediate needs of candidates filing under subsection 2 of section 115.355 for the current period of candidate filing, this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and this act shall be in full force and effect upon its passage and approval.

Approved February 19, 2014

HB 1136 [SCS HB 1136]

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

Changes the laws regarding elections

AN ACT to repeal sections 115.013, 115.104, 115.121, 115.221, 115.231, 115.237, 115.251, 115.253, 115.255, 115.257, 115.261, 115.263, 115.265, 115.267, 115.269, 115.271, 115.273, 115.301, 115.305, 115.342, 115.346, 115.417, 115.420, 115.431, 115.443, 115.453, 115.475, 115.477, 115.479, 115.483, 115.485, 115.487, 115.489, 115.495, and 115.503, RSMo, and to enact in lieu thereof twenty-six new sections relating to elections.

SECTION
A. Enacting clause.
115.013. Definitions.
115.104. Youth election participant — oath — nomination procedure — qualifications — election authorities and judges to direct, powers and duties — high schools may offer preparatory courses.
115.121. General election, when held — primary election, when held — general municipal election day, when held.
115.221. Voting records to be inspected annually.
115.237. Ballots, contents of — straight political party ticket voting prohibited — rulemaking authority.
115.255. Electronic voting machines used, paper ballots permitted, when.
115.257. Electronic voting machines to be put in order, procedure to be followed.
115.261. Voting machine not to be unlocked or opened during election, exception.
115.263. No persons except voters to handle electronic voting machine during election, exception.
115.265. Inoperative electronic voting machine, procedure to follow.
115.267. Experimental use, adoption of or abandonment of electronic voting equipment authorized.
115.269. Exhibition, demonstration and instruction on electronic voting machines authorized.
115.271. Electronic voting machines may be rented out or loaned to civic or educational organizations, when, procedure.
115.273. Consistent general law to apply in jurisdictions using electronic voting machines.
115.342. Disqualification for delinquent taxes — affidavit, form — complaints, investigation, notice, payment of taxes.
115.417. Voter instruction cards to be delivered to polls — instructions and sample ballot to be posted, how.
115.420. Butterfly ballot prohibited, exceptions.
115.431. Identification certificates to be initialed by judges and preserved as poll lists.
115.443. Paper ballots, how marked — electronic voting machines, how voted.
115.453. Procedure for counting votes for candidates.
115.475. Return of ballots, memory cards, and election materials, procedure for (electronic voting).
115.477. Ballots, procedure for counting (electronic voting).
115.479. Tabulating equipment to be tested, when (electronic voting).
115.483. Duties of judge after polls close (voting machines).
115.495. Electronic voting machine to be kept secured — machine unlocked, when — election contest, initial election data to be removed and secured before subsequent election.
115.503. Verification board to inspect or cause inspection of secured electronic voting machines.
115.231. Electronic ballots, how arranged.
115.251. Recording counters defined — machine may have device for preserving recording counter readings before and after election.
115.253. Voting machine ballot labels, how printed and displayed.
115.301. Ballot cards and write-in votes on absentee ballots, how tabulated.
115.305. Exempt candidates — exception — certain fourth class cities — when.
115.346. Persons in arrears for municipal taxes or fees shall not be candidates for municipal office, when.
115.485. Certification of tally book and statements of returns (voting machines).
115.487. Tally book, form of — tally sheet, form of (voting machines).
115.489. Statements of returns, tally book, write-in votes and election supplies, how returned to election authority (voting machines).

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

SECTION A. ENACTING CLAUSE. — Sections 115.013, 115.104, 115.121, 115.221, 115.231, 115.237, 115.251, 115.253, 115.255, 115.257, 115.261, 115.263, 115.265, 115.267, 115.269, 115.271, 115.273, 115.301, 115.305, 115.342, 115.346, 115.417, 115.420, 115.431,

115.443, 115.453, 115.475, 115.477, 115.479, 115.483, 115.485, 115.487, 115.489, 115.495, and 115.503, RSMo, are repealed and twenty-six new sections enacted in lieu thereof, to be known as sections 115.013, 115.104, 115.121, 115.221, 115.237, 115.255, 115.257, 115.261, 115.263, 115.265, 115.267, 115.269, 115.271, 115.273, 115.342, 115.417, 115.420, 115.431, 115.443, 115.453, 115.475, 115.477, 115.479, 115.483, 115.495, and 115.503, to read as follows:

115.013. DEFINITIONS. — As used in this chapter, unless the context clearly implies otherwise, the following terms mean:

(1) "Automatic tabulating equipment", the apparatus necessary to examine and automatically count votes, and the data processing machines which are used for counting votes and tabulating results;

(2) "Ballot", the ballot card, paper ballot or ballot designed for use with an electronic voting system on which each voter may cast all votes to which he or she is entitled at an election;

(3) "Ballot card", a ballot which is voted by making a punch or sensor mark which can be tabulated by automatic tabulating equipment;

(4) "Ballot label", the card, paper, booklet, page or other material containing the names of all offices and candidates and statements of all questions to be voted on;

(5) "Counting location", a location selected by the election authority for the automatic processing or counting, or both, of ballots;

(6) "County", any one of the several counties of this state or the City of St. Louis;

(7) "Disqualified", a determination made by a court of competent jurisdiction, the Missouri ethics commission, an election authority or any other body authorized by law to make such a determination that a candidate is ineligible to hold office or not entitled to be voted on for office;

(8) "District", an area within the state or within a political subdivision of the state from which a person is elected to represent the area on a policy-making body with representatives of other areas in the state or political subdivision;

(9) "Electronic voting machine", any part of an electronic voting system on which a voter is able to cast a ballot under this chapter;

[(9)**]** **(10)** "Electronic voting system", a system of casting votes by use of marking devices, and counting votes by use of automatic tabulating or data processing equipment, and includes computerized voting systems;

[(10)**]** **(11)** "Established political party" for the state, a political party which, at either of the last two general elections, polled for its candidate for any statewide office, more than two percent of the entire vote cast for the office. "Established political party" for any district or political subdivision shall mean a political party which polled more than two percent of the entire vote cast at either of the last two elections in which the district or political subdivision voted as a unit for the election of officers or representatives to serve its area;

[(11)**]** **(12)** "Federal office", the office of presidential elector, United States senator, or representative in Congress;

[(12)**]** **(13)** "Independent", a candidate who is not a candidate of any political party and who is running for an office for which party candidates may run;

[(13)**]** **(14)** "Major political party", the political party whose candidates received the highest or second highest number of votes at the last general election;

[(14)**]** **(15)** "Marking device", either an apparatus in which ballots are inserted and voted by use of a punch apparatus, or any approved device which will enable the votes to be counted by automatic tabulating equipment;

[(15)**]** **(16)** "Municipal" or "municipality", a city, village, or incorporated town of this state;

[(16)**]** **(17)** "New party", any political group which has filed a valid petition and is entitled to place its list of candidates on the ballot at the next general or special election;

[(17)**]** **(18)** "Nonpartisan", a candidate who is not a candidate of any political party and who is running for an office for which party candidates may not run;

[(18)**]** **(19)** "Political party", any established political party and any new party;

[(19)**]** **(20)** "Political subdivision", a county, city, town, village, or township of a township organization county;

[(20)**]** **(21)** "Polling place", the voting place designated for all voters residing in one or more precincts for any election;

[(21)**]** **(22)** "Precincts", the geographical areas into which the election authority divides its jurisdiction for the purpose of conducting elections;

[(22)**]** **(23)** "Public office", any office established by constitution, statute or charter and any employment under the United States, the state of Missouri, or any political subdivision or special district, but does not include any office in the reserve forces or the National Guard or the office of notary public or city attorney in cities of the third classification or cities of the fourth classification;

[(23)**]** **(24)** "Question", any measure on the ballot which can be voted "YES" or "NO";

[(24)**]** **(25)** "Relative within the first degree by consanguinity or affinity", a spouse, parent, or child of a person;

[(25)**]** **(26)** "Relative within the second degree by consanguinity or affinity", a spouse, parent, child, grandparent, brother, sister, grandchild, mother-in-law, father-in-law, daughter-in-law, or son-in-law;

[(26)**]** **(27)** "Special district", any school district, water district, fire protection district, hospital district, health center, nursing district, or other districts with taxing authority, or other district formed pursuant to the laws of Missouri to provide limited, specific services;

[(27)**]** **(28)** "Special election", elections called by any school district, water district, fire protection district, or other district formed pursuant to the laws of Missouri to provide limited, specific services; and

[(28)**]** **(29)** "Voting district", the one or more precincts within which all voters vote at a single polling place for any election.

115.104. YOUTH ELECTION PARTICIPANT — OATH — NOMINATION PROCEDURE — QUALIFICATIONS — ELECTION AUTHORITIES AND JUDGES TO DIRECT, POWERS AND DUTIES — HIGH SCHOOLS MAY OFFER PREPARATORY COURSES. — 1. As used in this section, the term "participant" means a Missouri youth election participant.

2. Notwithstanding any other law to the contrary, any person more than fifteen years of age but less than eighteen years of age who is in full-time attendance in a school of this state may aid and assist any election judge or election authority authorized or appointed pursuant to this chapter. Such **[**persons**]** **person** shall be known as "Missouri Youth Election Participants" and shall, before entering upon the duties related to an election conducted pursuant to this chapter, take and subscribe the following oath, which shall be signed by the participant and an original copy thereof delivered to the election authority:

I solemnly swear or affirm that I will impartially discharge the duties of a Missouri youth election participant by following to the best of my ability the instructions of any election judge, election authority, or teacher of my school. I also swear or affirm that I will not disclose how any voter has voted unless I am told to do so by an election judge, election authority, or a court of law in a proper judicial proceeding. I also swear or affirm that I will make no statement nor give any information of any kind tending in any way to show the state of the count of votes prior to the close of the polls on election day, nor will I make any statement during the conduct of my duties which tends to show my preferences for any issue or candidate involved in the election.

.....

Signature of Missouri Youth

Election Participant

3. If, in the opinion of the chief administrative officer of any high school of this state, the appointment of students in the tenth, eleventh or twelfth grade as Missouri youth election participants would benefit those persons involved and the election process, the officer may

nominate such persons as participants. The chief administrative officer shall establish the academic and behavioral standards for qualification, but persons nominated shall, at a minimum:

(1) Have demonstrated age-appropriate academic ability and demeanor;

(2) Be a person of good repute who can speak, read and write the English language; and

(3) Not be related within the second degree of consanguinity or affinity to any person whose name appears on the ballot, except that no participant shall be disqualified if related within such degree to an unopposed candidate.

4. The chief administrative officer of the school shall transmit a written list of nominees to the election authority of the jurisdiction at least sixty days prior to the election. If, in the opinion of the election authority, the appointment of participants nominated pursuant to this section would not be disruptive to the election process, the election authority may appoint any number of participants for each polling place or place where votes are to be counted within its jurisdiction. Such appointment shall include a schedule of the time during which the participant is expected to serve. **[**No participant shall be entitled to any compensation or remuneration for the time served as a participant or costs incurred in the performance of his duties.**]** Nothing in this section shall be construed to mandate the appointment of any participant if, in the sole discretion of the election authority, the presence of such participants in any polling place or place where votes are counted would be disruptive to the orderly election process.

5. Subject to the provisions of this section and under the direct supervision of the election authority or election judges, each participant may assist in the administration of the polling place, assist in the counting of votes, assist in the execution of any administrative duty of any election authority or election judge, and perform any other election-day-related duty as instructed.

6. Each election authority and election judge appointed pursuant to this chapter shall have the authority to direct any Missouri youth election participant in his duties and to compel compliance with law. Each election authority may, in its sole discretion, substitute participants on or before election day. Each election authority or election judge shall have the authority at any time to take any action necessary to remove any participant from any polling place or place where votes are being counted. It shall be the duty of any law enforcement officer, if requested by the election authority or judges of election, to exclude any participant from the polling place or place where votes are being counted.

7. In order to best prepare students for duty as Missouri youth election participants pursuant to this section, each high school of this state may offer a course of instruction in the democratic electoral process which concentrates upon the election law of this state. The high school may require successful completion of such a course prior to qualification for nomination as a Missouri youth election participant.

115.121. GENERAL ELECTION, WHEN HELD — PRIMARY ELECTION, WHEN HELD — GENERAL MUNICIPAL ELECTION DAY, WHEN HELD. — 1. The general election day shall be the first Tuesday after the first Monday in November of even-numbered years.

2. The primary election day shall be the first Tuesday after the first Monday in August of even-numbered years.

3. The election day for the election of political subdivision and special district officers shall be the first Tuesday after the first Monday in April each year; and shall be known as the general municipal election day.

[4. In addition to the primary election day provided for in subsection 2 of this section, for the year 2003, the first Tuesday after the first Monday in August, 2003, also shall be a primary election day for the purpose of permitting school districts and other political subdivisions of Missouri to incur debt in accordance with the provisions of article VI, section 26(a) through 26(g) of the Missouri Constitution, with the approval of four-sevenths of the eligible voters of such school district or other political subdivision voting thereon, to provide funds for the acquisition, construction, equipping, improving, restoration, and furnishing of facilities to replace, repair, reconstruct, reequip, restore, and refurnish facilities damaged, destroyed, or lost

due to severe weather, including, without limitation, windstorms, hail storms, flooding, tornadic winds, rainstorms and the like which occurred during the month of April or May, 2003.

5. Notwithstanding the provisions of subsection 1 of section 115.125, the officer or agency calling an election on the first Tuesday after the first Monday of August, 2003, shall notify the election authorities responsible for conducting the election not later than 5:00 p.m. on the sixth Tuesday prior to the election. For purposes of any such election, all references in section 115.125 to the tenth Tuesday prior to such election shall be deemed to refer to the sixth Tuesday prior to such election.

6. In addition to the general election day provided for in subsection 1 of this section, for the year 2009 the first Tuesday after the first Monday in November shall be a general election day for the purpose of permitting school districts to incur debt in accordance with the provisions of article VI, section 26(a) through 26(g) of the Missouri Constitution, with the approval of four-sevenths of the eligible voters of such school district, to provide funds for school districts to acquire, construct, equip, improve, restore, and furnish public school facilities in accordance with the provisions of Section 54F of the Internal Revenue Code of 1986, as amended, which provides for qualified school construction bonds and the provisions of Section 54AA of the Internal Revenue Code of 1986, as amended, which provides for build America bonds, as well as in accordance with the provisions of Section 103 of the Internal Revenue Code of 1986, as amended, which provides for traditional government bonds.**]**

115.221. VOTING RECORDS TO BE INSPECTED ANNUALLY. — **[**At least once each year,**]** **Notwithstanding any other provisions of law to the contrary,** each election authority **[**shall**]** **may** have the voting records inspected and may investigate the qualifications of any person who has not voted or transferred his registration within the four preceding calendar years.

115.237. BALLOTS, CONTENTS OF — STRAIGHT POLITICAL PARTY TICKET VOTING PROHIBITED — RULEMAKING AUTHORITY. — 1. Each ballot printed or designed for use with an electronic voting system for any election pursuant to this chapter shall contain all questions and the names of all offices and candidates certified or filed pursuant to this chapter and no other. As far as practicable, all questions and the names of all offices and candidates for which each voter is entitled to vote shall be printed on one page except for the ballot for political party committee persons in polling places not utilizing an electronic voting system which may be printed separately and in conformity with the requirements contained in this section. As far as practicable, ballots containing only questions and the names of nonpartisan offices and candidates shall be printed in accordance with the provisions of this section, except that the ballot information may be listed in vertical or horizontal rows. The names of candidates for each office shall be listed in the order in which they are filed.

2. **[**Except as provided in subsection 5 of this section, each ballot shall have:

(1) Each party name printed in capital letters not less than eighteen point in size;

(2) The name of each office printed in capital letters not less than eight point in size;

(3) The name of each candidate printed in capital letters not less than ten point in size;

(4) A small square, the sides of which shall not be less than one-fourth inch in length, printed directly to the left of each candidate's name and on the same line as the candidate's name. When write-in votes are authorized and no candidate's name is to be printed under the name of an office in a party or nonpartisan column, under the name of the office in the column shall be printed a square. Directly to the right of the square shall be printed a horizontal line on which the voter may vote for a person whose name does not appear on the ballot. When more than one position is to be filled for an office, and the number of candidates' names under the office in a column is less than the number of positions to be filled, the number of squares and write-in lines printed in the column shall equal the difference between the number of candidates' names and the number of positions to be filled;

(5) The list of candidates of each party and all nonpartisan candidates placed in separate columns with a heavy vertical line between each list;

(6) A horizontal line extending across the ballot three-eighths of an inch below the last name or write-in line under each office in such a manner that the names of all candidates and all write-in lines for the same office appear between the same horizontal lines. If write-in votes are not authorized, the horizontal line shall extend across the ballot three-eighths of an inch below the name of the last candidate under each office;

(7) In a separate column or beneath a heavy horizontal line under all names and write-in lines, all questions;

(8) At least three-eighths of an inch below all other matter on the ballot, printed in ten-point Gothic type, the words "Instructions to Voters" followed by directions to the voter on marking the ballot as provided in section 115.439;

(9) Printed at the top on the face of the ballot the words "Official Ballot" followed by the date of the election and the statement "Instruction to Voters: Place an X in the square opposite the name of the person for whom you wish to vote.".**] In polling places using electronic voting systems, the ballot information may be arranged in vertical or horizontal rows or on a number of separate pages or screens. In any event, the name of each candidate, the candidate's party, the office for which he or she is a candidate, and each question shall be indicated clearly on the ballot.**

3. **[**As nearly as practicable, each ballot shall be in substantially the following form:

OFFICIAL BALLOT DATE .....

REPUBLICAN	DEMOCRATIC	THIRD PARTY	INDEPENDENT
For President and Vice President ☐	For President and Vice President ☐	For President and Vice President ☐	For President and Vice President ☐ .....
For United States Senator ☐	For United States Senator ☐	For United States Senator ☐	For United States Senator ☐ .....
For Governor ☐	For Governor ☐	For Governor ☐	For Governor ☐ .....
For Lieutenant Governor ☐	For Lieutenant Governor ☐	For Lieutenant Governor ☐	For Lieutenant Governor ☐ .....
For Secretary of State ☐	For Secretary of State ☐	For Secretary of State ☐	For Secretary of State ☐ .....
For Treasurer ☐	For Treasurer ☐	For Treasurer ☐	For Treasurer ☐ .....
For Attorney General ☐	For Attorney General ☐	For Attorney General ☐	For Attorney General ☐ .....
For United States Representative ☐	For United States Representative ☐	For United States Representative ☐	For United States Representative ☐ .....
For State Senator ☐	For State Senator ☐	For State Senator ☐	For State Senator ☐ .....
For State Representative ☐	For State Representative ☐	For State Representative ☐	For State Representative ☐ .....
For Circuit Judge ☐	For Circuit Judge ☐	For Circuit Judge ☐	For Circuit Judge ☐ .....**]**

Nothing in this subchapter shall be construed as prohibiting the use of a separate paper ballot for questions or for the presidential preference primary in any polling place using an electronic voting system.

4. **Where electronic voting systems are used and when write-in votes are authorized by law, a write-in ballot, which may be in the form of a separate paper ballot, card, or envelope, may be provided by the election authority to permit each voter to write in the names of persons whose names do not appear on the ballot.**

5. No ballot printed or designed for use with an electronic voting system for any partisan election held under this chapter shall allow a person to vote a straight political party ticket. For purposes of this subsection, a "straight political party ticket" means voting for all of the candidates for elective office who are on the ballot representing a single political party by a single selection on the ballot.

[5.**]** **6.** The secretary of state shall promulgate rules that specify uniform standards for ballot layout for each electronic or computerized ballot counting system approved under the provisions of section 115.225 so that the ballot used with any counting system is, where possible, consistent with the intent of this section. Nothing in this section shall be construed to require the format specified in this section if it does not meet the requirements of the ballot counting system used by the election authority.

[6.**]** **7.** Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

115.255. ELECTRONIC VOTING MACHINES USED, PAPER BALLOTS PERMITTED, WHEN. — **[**1. In polling places using voting machines, the ballot information may be arranged in vertical or horizontal rows. In any event, the name of each candidate, his party, the office for which he is a candidate and each question shall be indicated clearly on the ballot label. All ballot labels shall be placed to indicate clearly to the voter which key lever or other device to operate in order to vote on questions and for the candidates of his choice.

2. Nothing in this subchapter shall be construed as prohibiting**]** The use of **[**a**]** separate paper **[**ballot**]** **ballots** for questions **and candidates** in polling places **shall not be prohibited** where **electronic** voting machines are used.

115.257. ELECTRONIC VOTING MACHINES TO BE PUT IN ORDER, PROCEDURE TO BE FOLLOWED. — 1. In jurisdictions where **electronic** voting machines are used, the election authority shall cause the voting machines to be put in order, set, adjusted and made ready for voting before they are delivered to polling places. **[**Before delivery to the polling places, the election authority shall have all recording counters, except the protective counter on each voting machine set at zero (000).**]**

2. At least five days before preparing **electronic** voting machines for any election, notice of the time and place of such preparation shall be mailed to each independent candidate and the chairman of the county committee of each established political party named on the ballot. The preparation shall be watched by two observers designated by the election authority, one from each major political party, and shall be open to representatives of the political parties, candidates, the news media and the public.

3. When **[**a**]** **an electronic voting** machine has been examined by such observers and shown to be in good working order, the machine shall be locked against voting **[**and sealed in their presence with a numbered metal seal**]**. The observers shall certify the **[**number**]** **vote count**

on each machine**[**, the number on each protective counter, the number on each seal and that each recording counter**]** is set at zero.

4. After **[**a**]** **an electronic** voting machine has been properly prepared**[**,**]** **and** locked **[**and sealed**]**, its keys shall be retained by the election authority and delivered to the election judges along with the other election supplies.

5. Nothing in this section shall prohibit the on-site storage of **electronic** voting machines and the preparation of the **electronic** machines for voting, provided the **electronic** voting machines are put in order, set, adjusted and made ready for voting as provided in subsections 1, 2, 3 and 4 of this section.

115.261. VOTING MACHINE NOT TO BE UNLOCKED OR OPENED DURING ELECTION, EXCEPTION. — During an election, no door **[**or other counter**]**, compartment **[**covering**]**, **or lock** shall be unlocked or opened **[**or the counters exposed**]**, except by direction of the election authority, and then only for good and sufficient reason. If the door **[**or other counter**]**, compartment **[**covering**]**, **or lock** on any machine is opened by the election authority or his representative, the reason for such opening shall be stated in writing, signed by the election authority or his representative and attached to one statement of returns.

115.263. NO PERSONS EXCEPT VOTERS TO HANDLE ELECTRONIC VOTING MACHINE DURING ELECTION, EXCEPTION. — After the opening of the polls, the election judges shall not permit any person to handle any **electronic** voting machine, except voters while they are voting and others expressly authorized by the election authority **or state law**.

115.265. INOPERATIVE ELECTRONIC VOTING MACHINE, PROCEDURE TO FOLLOW. — If any **electronic** voting machine at a polling place becomes inoperative, the election judges shall immediately notify the election authority. If possible, the election authority shall repair or replace the machine. If **[**a**]** **an electronic** voting machine is replaced with another machine, the votes on both machines shall be recorded at the close of the polls and shall be added together in determining the results of the election. If the inoperative machine cannot be repaired, and no other machine is available for use, paper ballots, made as nearly as practicable to the official ballot may be used. At the close of the polls, the votes on paper ballots and the votes on the **electronic** voting machines shall be recorded and shall be added together in determining the results of the election. All paper ballots used pursuant to this section shall be used in accordance with the laws affecting paper ballots and shall be returned to the election authority as paper ballots are returned with a statement describing how and why the paper ballots were voted.

115.267. EXPERIMENTAL USE, ADOPTION OF OR ABANDONMENT OF ELECTRONIC VOTING EQUIPMENT AUTHORIZED. — Any election authority may adopt, experiment with or abandon any **[**voting machine meeting the requirements of this subchapter or any**]** electronic voting system approved for use in the state, or may lease one or more **electronic** voting machines or other equipment, either with or without option to purchase, and may use any authorized **electronic** voting equipment at any polling place in its jurisdiction.

115.269. EXHIBITION, DEMONSTRATION AND INSTRUCTION ON ELECTRONIC VOTING MACHINES AUTHORIZED. — For the purpose of giving instructions on their use, any election authority may designate suitable times and places for the exhibition and demonstration of its **electronic** voting machines **[**or marking devices**]**. During such instructions, the **electronic** voting machines **[**and marking devices**]** may contain sample ballot labels which show the names of offices and fictitious candidates. No **electronic** voting machine shall be used for instruction after it has been prepared **[**and sealed**]** for use at an election, unless it is prepared again **[**and resealed**]** prior to the election. **[**During the instructions, no counting mechanism on any voting machine shall be exposed to view.**]**

115.271. ELECTRONIC VOTING MACHINES MAY BE RENTED OUT OR LOANED TO CIVIC OR EDUCATIONAL ORGANIZATIONS, WHEN, PROCEDURE. — 1. While its **electronic** voting machines **[**or marking devices**]** are not in use, the election authority may permit civic or educational organizations to use the machines **[**or devices**]** for the purpose of giving instructions on their use.

2. Any election authority may rent its **electronic** voting machines **[**or marking devices**]** to any other group for use in its elections.

3. At the discretion of the election authority, the machines **[**or devices**]** may be transported at the expense of the organizations using them. The president or secretary of each organization using such machines **[**or devices**]** shall sign a receipt therefor and shall agree in writing that the organization assumes liability for any damage or loss occurring to the machines **[**or devices**]** up to the time they are returned to the election authority and will return the machines **[**or devices**]** by a designated time.

115.273. CONSISTENT GENERAL LAW TO APPLY IN JURISDICTIONS USING ELECTRONIC VOTING MACHINES. — All provisions of law not inconsistent with the provisions of sections 115.249 to 115.271 shall apply with full force and effect to elections in jurisdictions using **electronic** voting machines.

115.342. DISQUALIFICATION FOR DELINQUENT TAXES — AFFIDAVIT, FORM — COMPLAINTS, INVESTIGATION, NOTICE, PAYMENT OF TAXES. — 1. Any person who files as a candidate for election to a public office shall be disqualified from participation in the election for which the candidate has filed if such person is delinquent in the payment of any state income taxes, personal property taxes, **municipal taxes,** real property taxes on the place of residence, as stated on the declaration of candidacy, or if the person is a past or present corporate officer of any fee office that owes any taxes to the state.

2. Each potential candidate for election to a public office shall file an affidavit with the department of revenue and include a copy of the affidavit with the declaration of candidacy required under section 115.349. Such affidavit shall be in substantially the following form:

AFFIRMATION OF TAX PAYMENTS AND BONDING REQUIREMENTS:

I hereby declare under penalties of perjury that I am not currently aware of any delinquency in the filing or payment of any state income taxes, personal property taxes, **municipal taxes,** real property taxes on the place of residence, as stated on the declaration of candidacy, or that I am a past or present corporate officer of any fee office that owes any taxes to the state, other than those taxes which may be in dispute. I declare under penalties of perjury that I am not aware of any information that would prohibit me from fulfilling any bonding requirements for the office for which I am filing.

..... Candidate's Signature

..... Printed Name of Candidate.

3. Upon receipt of a complaint alleging a delinquency of the candidate in the filing or payment of any state income taxes, personal property taxes, **municipal taxes,** real property taxes on the place of residence, as stated on the declaration of candidacy, or if the person is a past or present corporate officer of any fee office that owes any taxes to the state, the department of revenue shall investigate such potential candidate to verify the claim contained in the complaint. If the department of revenue finds a positive affirmation to be false, the department shall contact the secretary of state, or the election official who accepted such candidate's declaration of candidacy, and the potential candidate. The department shall notify the candidate of the outstanding tax owed and give the candidate thirty days to remit any such outstanding taxes owed which are not the subject of dispute between the department and the candidate. If the candidate fails to remit such amounts in full within thirty days, the candidate shall be disqualified from participating in the current election and barred from refiling for an entire election cycle even if the individual pays all of the outstanding taxes that were the subject of the complaint.

115.417. VOTER INSTRUCTION CARDS TO BE DELIVERED TO POLLS — INSTRUCTIONS AND SAMPLE BALLOT TO BE POSTED, HOW. — 1. Before the time fixed by law for the opening of the polls, the election authority shall deliver to each polling place a sufficient number of voter instruction cards which include the following information:

(1) If paper ballots or an electronic voting system is used, the instructions shall inform the voter on how to obtain a ballot for voting, how to vote and prepare the ballot for deposit in the ballot box and how to obtain a new ballot to replace one accidentally spoiled**[**;

(2) If voting machines are used, the instructions shall inform the voter how to operate the machine in such a manner that the voter may vote as the voter wishes**]**.

2. The election authority at each polling place shall post in a conspicuous place voting instructions on a poster no smaller than twenty-four inches by thirty inches. Such instructions shall also inform the voter that the **electronic** voting equipment can be demonstrated upon request of the voter. The election authority shall also publicly post during the period of time in which a person may cast an absentee ballot and on election day a sample version of the ballot that will be used for that election, the date of the election, the hours during which the polling place will be open, instructions for mail-in registrants and first-time voters, general information on voting rights in accordance with the state plan filed by the secretary of state pursuant to the Help America Vote Act of 2002, general information on the right to cast a provisional ballot and instructions for provisional ballots, how to contact appropriate authorities if voting rights have been violated, and general information on federal and Missouri law regarding prohibitions on acts of fraud and misrepresentation. The secretary of state may promulgate rules to execute this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536.

3. **[**If marking devices or voting machines are used, the election authority shall also provide to each polling place a model of a marking device or portion of the face of a voting machine. If requested to do so by a voter, the election judges shall give instructions on operation of the marking device or voting machine by use of the model.

4.**]** The secretary of state may develop multilingual voting instructions to be made available to election authorities.

115.420. BUTTERFLY BALLOT PROHIBITED, EXCEPTIONS. — 1. An election authority **[**operating a voting system that uses ballot cards**]** shall not use a butterfly ballot unless the secretary of state provides written approval to the election authority for the use of a butterfly ballot in the particular election.

2. For purposes of this section, "butterfly ballot" means a ballot where two ballot pages are used side by side and where voters must vote on candidates or issues on both sides of the pages.

[3. The secretary of state may approve the use of a butterfly ballot in a particular election when a large number of candidates and issues are to be decided, no alternative ballot is reasonable under the circumstances, and the election authority submits to the secretary of state a written explanation of the need for using a butterfly ballot. The secretary of state shall respond to such written request within two business days.**]**

115.431. IDENTIFICATION CERTIFICATES TO BE INITIALED BY JUDGES AND PRESERVED AS POLL LISTS. — Upon satisfactory identification of the voter, two judges of different political parties shall place their initials on the line where the voter signed the precinct register **or, if electronic pollbooks are used, two judges of different political parties shall make the appropriate mark on the pollbook**. **[**All voters' names on the precinct register shall be numbered consecutively in the order in which they have signed, starting with the number "1".**]** The **[**computer**]** **computerized or paper** precinct register shall then constitute the poll list.

115.443. PAPER BALLOTS, HOW MARKED — ELECTRONIC VOTING MACHINES, HOW VOTED. — 1. Where paper ballots are used, the voter shall, before leaving the voting booth, fold

his ballot so that the **[**cross (X)**]** **distinguishing** marks are concealed. The voter shall place his ballot in the ballot box and leave the polling place immediately.

2. **[**Where ballot cards with envelopes are used, the voter shall, immediately before leaving the voting booth, place his ballot card in the ballot envelope. Where ballot cards with stubs are used, the voter shall, immediately after leaving the voting booth, hand his ballot card or envelope containing his ballot card to an election judge. The election judge shall remove the stub from the ballot card and, where ballot envelopes are used, replace the ballot card in the envelope and return the ballot card or envelope containing the ballot card to the voter. The voter shall place the ballot card or envelope containing the ballot card in the ballot box and leave the polling place immediately. Where ballot cards without stubs are used, the voter shall, immediately after leaving the voting booth, place the ballot card or ballot envelope containing the ballot card in the ballot box and leave the polling place immediately.

3.**]** Where **electronic** voting machines are used, the voter shall register his vote as directed in the instructions for use of the machine and leave the polling place immediately.

115.453. PROCEDURE FOR COUNTING VOTES FOR CANDIDATES. — Election judges shall count votes for all candidates in the following manner:

(1) No candidate shall be counted as voted for, except a candidate before whose name a **[**cross (X)**]** **distinguishing** mark appears **[**in the square**]** preceding the name and a **[**cross (X)**]** **distinguishing** mark does not appear in the square preceding the name of any candidate for the same office in another column. Except as provided in this subdivision and subdivision (2) of this section, each candidate with a **[**cross (X)**]** **distinguishing** mark **[**in the square**]** preceding his or her name shall be counted as voted for;

(2) If **[**cross (X)**]** **distinguishing** marks appear next to the names of more candidates for an office than are entitled to fill the office, no candidate for the office shall be counted as voted for. If more than one candidate is to be nominated or elected to an office, and any voter has voted for the same candidate more than once for the same office at the same election, no votes cast by the voter for the candidate shall be counted;

(3) No vote shall be counted for any candidate that is not marked substantially in accordance with the provisions of this section. The judges shall count votes marked substantially in accordance with this section and section 115.456 when the intent of the voter seems clear. Regulations promulgated by the secretary of state shall be used by the judges to determine voter intent. No ballot containing any proper votes shall be rejected for containing fewer marks than are authorized by law;

(4) Write-in votes shall be counted only for candidates for election to office who have filed a declaration of intent to be a write-in candidate for election to office with the proper election authority, who shall then notify the proper filing officer of the write-in candidate prior to 5:00 p.m. on the second Friday immediately preceding the election day; except that, write-in votes shall be counted only for candidates for election to state or federal office who have filed a declaration of intent to be a write-in candidate for election to state or federal office with the secretary of state pursuant to section 115.353 prior to 5:00 p.m. on the second Friday immediately preceding the election day. No person who filed as a party or independent candidate for nomination or election to an office may, without withdrawing as provided by law, file as a write-in candidate for election to the same office for the same term. No candidate who files for nomination to an office and is not nominated at a primary election may file a declaration of intent to be a write-in candidate for the same office at the general election. When declarations are properly filed with the secretary of state, the secretary of state shall promptly transmit copies of all such declarations to the proper election authorities for further action pursuant to this section. The election authority shall furnish a list to the election judges and counting teams prior to election day of all write-in candidates who have filed such declaration. This subdivision shall not apply to elections wherein candidates are being elected to an office for which no candidate has filed. No person shall file a declaration of intent to be a write-in candidate for election to any

municipal office unless such person is qualified to be certified as a candidate under section 115.346;

(5) Write-in votes shall be cast and counted for a candidate without party designation. Write-in votes for a person cast with a party designation shall not be counted. Except for candidates for political party committees, no candidate shall be elected as a write-in candidate unless such candidate receives a separate plurality of the votes without party designation regardless of whether or not the total write-in votes for such candidate under all party and without party designations totals a majority of the votes cast;

(6) When submitted to the election authority, each declaration of intent to be a write-in candidate for the office of United States president shall include the name of a candidate for vice president and the name of nominees for presidential elector equal to the number to which the state is entitled. At least one qualified resident of each congressional district shall be nominated as presidential elector. Each such declaration of intent to be a write-in candidate shall be accompanied by a declaration of candidacy for each presidential elector in substantially the form set forth in subsection 3 of section 115.399. Each declaration of candidacy for the office of presidential elector shall be subscribed and sworn to by the candidate before the election official receiving the declaration of intent to be a write-in, notary public or other officer authorized by law to administer oaths.

115.475. RETURN OF BALLOTS, MEMORY CARDS, AND ELECTION MATERIALS, PROCEDURE FOR (ELECTRONIC VOTING). — 1. **[**Immediately after signing the statements of returns, or earlier if convenient, the election judges shall separate all ballot cards, except defective ballot cards, from the write-in forms if any. As soon as possible after signing the statements of returns, the election judges shall enclose the ballot cards, the envelope marked "DEFECTIVE BALLOTS", all write-in forms containing proper votes, and the tally book, tally sheets and statements of returns in a container designated by the election authority. The container shall be securely sealed in such a manner that if the container is opened, the seal will be broken beyond repair. On the outside of the container, the location of the polling place and date of the election shall be printed.

2.**]** As soon as possible after signing the statements of returns, the election judges shall **seal and** enclose the **ballots, electronic voting machine memory cards,** write-in forms containing no votes, the unused ballots and other election supplies in containers designated by the election authority.

[3.**]** **2.** Immediately after the **[**ballot cards and other**]** election materials have been placed in the proper containers, the two supervisory judges shall together deliver the containers to the counting location or other place designated by the election authority. If any **[**ballot card**]** container is not sealed when it is delivered to the counting location or other place designated by the election authority, the election official receiving the container shall make a statement of the fact which includes the location of the polling place and the date of the election printed on the container and the reason the container is not sealed, if known.

[4.**]** **3.** If the election authority has directed the supervisory judges to deliver election materials to a place other than the counting location, the election authority shall appoint at least one team of election judges who shall receive the **[**ballot**]** containers from the supervisory judges and immediately deliver them to the counting location. Each team appointed pursuant to this subsection shall consist of two election judges or employees of the election authority, one from each major political party.

[5. The election authority may authorize the delivery of ballots voted prior to 11:00 a.m. to the counting location prior to the closing of the polls.**]**

115.477. BALLOTS, PROCEDURE FOR COUNTING (ELECTRONIC VOTING). — 1. In each jurisdiction using an electronic voting system, all proceedings at the counting location shall be under the direction of the election authority. The election authority shall appoint two judges, one

from each major political party, to be present and observe the count. The counting shall be open to the public, but no persons, except those employed and authorized for the purpose, shall touch any ballot, ballot container or return.

2. **[**All ballot cards shall be counted in order by polling place.**]** The automatic tabulating equipment shall produce a return showing the total number of votes cast for each candidate and on each question at each polling place and in the jurisdiction as a whole.

3. If any ballot is damaged and cannot be properly counted by the automatic tabulating equipment, it may be handcounted in the manner provided for absentee ballots, or a true duplicate copy may be made of the defective ballot. If any ballot contains a number of votes and write-in votes for any office which exceeds the number allowed by law, it may be handcounted in the manner provided for absentee ballots, a true duplicate copy be made which does not include the invalid votes or, at the discretion of the election judges, a self-adhesive removable label, sensitized, may be placed over any mark to allow the ballot to be processed through the automatic tabulating equipment. The duplication of each ballot shall be closely observed by two election judges or employees of the election authority, one from each major political party. Each duplicate ballot shall be clearly labeled "duplicate", shall bear a serial number which shall be recorded on the defective ballot, and shall be counted in lieu of the defective ballot.

115.479. TABULATING EQUIPMENT TO BE TESTED, WHEN (ELECTRONIC VOTING). — In each jurisdiction using an electronic voting system, the election authority shall, after the count has been completed and the results received, have the automatic tabulating equipment tested to ascertain that the equipment has correctly counted the votes for all offices and on all questions. The test shall be observed by at least two persons designated by the election authority, one from each major political party, and shall be open to the public. The test shall be conducted by processing the same preaudited group of **[**ballot cards**]** **ballots** used in the preelection test provided for in section 115.233. If any error is detected, the cause shall be ascertained and corrected, and an errorless count shall be made before the final results are announced. After the completion of an errorless count, the programs and the **[**ballot cards**]** **ballots** shall be sealed, retained and disposed of as provided for paper ballots.

115.483. DUTIES OF JUDGE AFTER POLLS CLOSE (VOTING MACHINES). — 1. As soon as the polls close in each polling place using **electronic** voting machines, the election judges shall **[**lock and seal**]** **secure** each voting machine against further voting and proceed to count the votes. Once begun, the count shall not be adjourned or postponed until all proper votes have been counted.

2. The election judges shall open the counting compartment on each voting machine or, if a machine is equipped with a device for printing, embossing or photographing the registering counters, the judges shall operate the machine to produce a record of the counters. One counting judge shall read the total vote cast for each candidate and for and against each question on each machine. The other counting judge shall watch and verify each total as it is being read from the recording counters or from the record of the counters. The two recording judges shall each record the votes cast for each candidate and for and against each question as they are called out and verified by the counting judges.

3. All proper write-in votes shall be read, recorded and counted as provided in sections 115.449 and 115.453. No write-in vote shall be counted for any candidate for any office whose name appears on the ballot label as a candidate for the office, except when more than one person is to be nominated or elected to an office. When more than one person is to be nominated or elected to an office, the voter may write in the names of one or more persons whose names do not appear on the ballot label with or without the names of one or more persons whose names do appear. No write-in vote shall be counted unless it is cast in the appropriate place on the machine.

4. If more than one voting machine is used in a polling place, the election judges shall read, verify and record all the totals from the first machine before proceeding to the second, and so on, until all of the totals on each machine in the polling place have been read, verified and recorded. The total number of votes from each machine shall be added to the write-in votes to determine the total vote for each candidate and for and against each question.

115.495. ELECTRONIC VOTING MACHINE TO BE KEPT SECURED — MACHINE UNLOCKED, WHEN — ELECTION CONTEST, INITIAL ELECTION DATA TO BE REMOVED AND SECURED BEFORE SUBSEQUENT ELECTION. — 1. After being **[**locked and sealed**]** **secured** against further voting by the election judges, **electronic** voting machines shall remain **[**locked**]** **secured** for the period provided by law for filing an election contest and as much longer as may be necessary or advisable because of any threatened or pending contest, grand jury investigation, or civil or criminal case relating to the election. During this time, the **electronic** voting machines shall not be **[**unlocked**]** **unsecured**, except upon order of a court, grand jury or legislative body trying an election contest.

2. Notwithstanding the provisions of subsection 1 of this section to the contrary, when an election is required by law to be held after an election during any period of time described in subsection 1 of this section, the data of the electronic voting machine relating to the initial election shall be removed and secured and such machine shall be made available for use in the subsequent election.

115.503. VERIFICATION BOARD TO INSPECT OR CAUSE INSPECTION OF SECURED ELECTRONIC VOTING MACHINES. — 1. As soon as possible after an election in which **electronic** voting machines are used, the verification board, or a bipartisan committee appointed by the verification board, shall inspect each **secured electronic** voting machine **[**not equipped with printed election return mechanisms used at the election and shall make a record of the number on the seal and protective counter of each machine, open the counter compartment of the machine**]** and **[**, without unlocking the machine against voting,**]** record the votes cast on the machine. In precincts where **electronic** voting machines equipped with printed election returns mechanisms are used, the counter compartment shall not be opened and the original and duplicate originals of the printed return sheets of the votes cast on questions and for candidates regularly nominated, or who have duly filed, together with the tabulation and inclusion of any votes written in on the paper roll for those not regularly nominated, or who have not filed, shall constitute the official return sheet for the votes cast on that machine, when properly certified by the precinct election officers. **[**One copy of such printed return sheet shall be posted on the outside of the polling place for the information of the public.**]** One copy **of such printed return sheet** shall be returned to the election authority and retained by it for not less than one year. Any bipartisan committee appointed pursuant to this subsection shall consist of at least two people, one from each major political party, who shall be appointed in the same manner and possess the same qualifications as election judges.

2. After the verification board or committee has completed its inspection and record, it shall compare the record with the returns made by the election judges on election day. If there is a discrepancy between the returns of the election judges and the record of the verification board or committee, the verification board shall correct the returns made by the judges to conform to its record. The corrected returns shall supersede the returns made by the election judges on election day. Both the record and the returns shall be retained by the election authority as provided in section 115.493.

[115.231. ELECTRONIC BALLOTS, HOW ARRANGED. — 1. In polling places using electronic voting systems, the ballot information, whether placed on the ballot card or on the marking device, may be arranged in vertical or horizontal rows, or on a number of separate pages. In any event, the name of each candidate, the candidate's

party, the office for which he or she is a candidate and each question shall be indicated clearly on the ballot card or marking device.

2. Nothing in this subchapter shall be construed as prohibiting the use of a separate paper ballot for questions or for the presidential preference primary in any polling place using an electronic voting system.

3. Where electronic voting systems are used and when write-in votes are authorized by law, a write-in ballot, which may be in the form of a separate paper ballot, card or envelope shall be provided to permit each voter to write in the names of persons whose names do not appear on the ballot.**]**

[115.251. RECORDING COUNTERS DEFINED — MACHINE MAY HAVE DEVICE FOR PRESERVING RECORDING COUNTER READINGS BEFORE AND AFTER ELECTION. — Any voting machine may be provided with a device for printing, embossing or photographing the recording counters before the polls open and after the polls close. "Recording counters" are the counters which show the total number of votes cast for each candidate and for and against each question at any particular time.**]**

[115.253. VOTING MACHINE BALLOT LABELS, HOW PRINTED AND DISPLAYED. — Prior to every election at which voting machines are used, the election authority shall insert ballot labels into the voting machines. The ballot labels shall be printed in black on white material of uniform size and shall fit the ballot frames of the machines. In its discretion, the election authority may print the names of the offices in red. The part of the ballot labels pertaining only to questions may be printed in black upon material tinted red. After the ballot labels have been inserted into the machines, the face of each ballot label shall be completely covered with a protective covering of smooth, hard, transparent material so that it is impossible to alter the face of the ballot label without removing or breaking the covering.]

[115.301. BALLOT CARDS AND WRITE-IN VOTES ON ABSENTEE BALLOTS, HOW TABULATED. — If ballot cards are used as absentee ballots, the teams shall meet on election day at a time and place designated by the election authority and shall proceed to separate the ballot cards from the write-in forms and to count the write-in votes as provided in section 115.467. The returns shall be made as provided in sections 115.471 and 115.473, and the ballot cards and other designated election materials shall be delivered to the counting location and tabulated in the manner provided in section 115.475, but no ballot card shall be tabulated before the time fixed by law for the closing of the polls.**]**

[115.305. EXEMPT CANDIDATES — EXCEPTION — CERTAIN FOURTH CLASS CITIES — WHEN. — This subchapter shall not apply to candidates for special district offices, township offices in township organization counties, or city, town and village offices; provided that, cities of the fourth class, except those in a county of the first class with a charter form of government and which adjoins a city not within a county, may elect, only by ordinance, to hold primary elections in accordance with the provisions of sections 115.305 to 115.405 or in accordance with the provisions of sections 78.470, 78.480 and 78.510, and the ordinance shall state which of these provisions of law are being adopted.]

[115.346. PERSONS IN ARREARS FOR MUNICIPAL TAXES OR FEES SHALL NOT BE CANDIDATES FOR MUNICIPAL OFFICE, WHEN. — Notwithstanding any other provisions of law to the contrary, no person shall be certified as a candidate for a municipal office, nor shall such person's name appear on the ballot as a candidate for

such office, who shall be in arrears for any unpaid city taxes or municipal user fees on the last day to file a declaration of candidacy for the office.**]**

[115.485. CERTIFICATION OF TALLY BOOK AND STATEMENTS OF RETURNS (VOTING MACHINES). — At each polling place using voting machines, after the polling place is closed, the judges shall

(1) Certify in the tally book the number on the protective counter of each machine, the number of identification certificates signed and the number of proper write-in votes cast at the polling place. If the number of signed identification certificates is not the same as the number of votes cast as registered on the protective counters, the judges shall make a signed statement of the fact and the reasons therefor if known and shall return the statement with the statements of returns;

(2) Certify on two statements of returns the total number of votes cast for each candidate and for and against each question at the polling place;

(3) Certify that each statement made in the tally book and on each statement of returns is correct. If any judge declines to certify that all such statements are correct, he shall state his reasons in writing, which shall be attached to each statement of returns and returned to the election authority.]

[115.487. TALLY BOOK, FORM OF — TALLY SHEET, FORM OF (VOTING MACHINES). — 1. The tally book for each polling place using voting machines shall be in substantially the following form: Tally book for ..... precincts, at the general (special, primary) election held on the ..... day of ....., 20.... AB, CD, EF, and XP judges, and ZR and LT, watchers and BH and SP challengers at this polling place, were sworn as the law directs before beginning their duties. We hereby certify: This polling place received voting machines numbered ..... and .....; The number on the seal of voting machine number ..... is .....; the number on its protective counter is .....; The number on the seal of voting machine number ..... is .....; the number on its protective counter is .....; All recording counters on all voting machines received at this polling place are set at zero; The information on the ballot labels on all voting machines received at this polling place is the same as the information on the sample ballots received at this polling place.

AB

CD

EF Election Judges XP We hereby certify: The number on the protective counter of voting machine number ..... is .....; The number on the protective counter of voting machine number ..... is .....; The number of identification certificates signed at this polling place is .....; The number of proper write-in votes cast at this polling place is .....

AB

CD

EF

XP

2. At each polling place using voting machines, two tally sheets shall be included in each tally book. The tally sheets shall be used to record the votes cast for each candidate and for and against each question as they are called out and verified by the counting judges. The tally sheets shall be in substantially the following form:

NAMES OF PERSONS VOTED FOR AND
FOR WHAT OFFICE AND THE NUMBER
OF VOTES CAST FOR EACH PERSON

Office	Candidates	Voting Machine Number__	Voting Machine Number__	Write-in Votes	Total Votes

Governor	MC				
	HK				
	EH				
Representative in Congress	SS				
	RK				
	CB				

VOTES FOR AND AGAINST EACH QUESTION

Question	Voting Machine Number____		Voting Machine Number____		Total Number of Votes	Total Number of Votes
	Votes FOR	Votes AGAINST	Votes FOR	Votes AGAINST	FOR	AGAINST
1. To _____ _____ _____						
2. To _____ _____ _____						

3. At each polling place using voting machines, two statements of returns shall be provided to the election judges. The statements of returns shall be in substantially the form provided in subsection 3 of section 115.461.]

[115.489. STATEMENTS OF RETURNS, TALLY BOOK, WRITE-IN VOTES AND ELECTION SUPPLIES, HOW RETURNED TO ELECTION AUTHORITY (VOTING MACHINES). — 1. Immediately after signing the statements of returns, the election judges shall enclose the write-in votes, tally books, statements of returns and other election supplies in containers designated by the election authority.

2. In each jurisdiction using voting machines, the election authority may direct the supervisory judges to place the precinct registers, identification certificates and other election supplies inside the voting machines and lock them for return to the election authority.]

Approved June 4, 2014

HB 1189 [HCS HB 1189]

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

Requires DESE to adopt a policy on high school graduation that allows certain agriculture or career and technical education courses to satisfy certain subject-specific graduation requirements

AN ACT to amend chapter 170, RSMo, by adding thereto one new section relating to graduation requirements.

SECTION
A. Enacting clause.
170.017. Agriculture or career and technical course may be substituted for certain units required for high school graduation, exception.

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

SECTION A. ENACTING CLAUSE. — Chapter 170, RSMo, is amended by adding thereto one new section, to be known as section 170.017, to read as follows:

170.017. AGRICULTURE OR CAREER AND TECHNICAL COURSE MAY BE SUBSTITUTED FOR CERTAIN UNITS REQUIRED FOR HIGH SCHOOL GRADUATION, EXCEPTION. — The department of elementary and secondary education shall, by July 1, 2015, develop a high school graduation policy that allows a student to fulfill one unit of academic credit with a district-approved agriculture or career and technical education course for any communication arts, mathematics, science, or social studies unit required for high school graduation in any combination up to fulfilling one requirement in each of the four subject areas. The substitution may not be made where the course for which the agriculture or career and technical education course is being substituted requires an end-of-course statewide assessment. The credit cannot be substituted for any course which requires a statewide end-of-course assessment. The policy required under this section shall be in addition to the optional waiver of one unit of academic credit for a three-unit career and technical program of studies.

Approved July 9, 2014

HB 1190 [SCS HB 1190]

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

Establishes the Facilitating Business Rapid Response to State Declared Disasters Act and requires the issuance of permits to transport equipment and materials following a disaster where utility service has bee

AN ACT to repeal sections 143.041, 143.071, 143.191, 144.610, 285.230, 285.232, 285.233, 285.234, and 304.180, RSMo, and to enact in lieu thereof fourteen new sections relating to facilitating rapid response to disasters, with an existing penalty provision.

SECTION
A. Enacting clause.

143.041. Nonresident individual — inapplicable to out-of-state businesses and employees, when.
143.071. Corporations — inapplicable to out-of-state businesses, when.
143.191. Employer to withhold tax from wages — armed services, withholding from wages or retirement — federal civil service retirement, withholding authorized, when — inapplicable to out-of-state businesses, when.
144.610. Tax imposed, property subject, exclusions, who liable — inapplicable to out-of-state businesses and employees, when.
190.270. Citation of law.
190.275. Definitions.
190.280. Out-of-state businesses not subject to certain state or local requirements — out-of-state employee not a resident for tax purposes — limitations.
190.285. Notification to secretary of state by out-of-state business required, when, content — information provided to department of revenue, when.
190.286. Inapplicability to certain out-of-state businesses.
285.230. Transient employers, defined, bonding requirements — exceptions — specific requirements — penalties — records to be kept, how — discontinuance in activity, notice to director of revenue — inapplicability to certain out-of-state businesses.
285.232. Construction contractors, who are transient employers, proof and financial assurance required — list of contractors to be published — inapplicability to certain out-of-state businesses.
285.233. Transient employers not filing financial assurance, escrow requirements — failure of political subdivision or private entity to escrow funds, penalties — transient employer not in compliance with law, writ of attachment or injunction authorized — inapplicability to certain out-of-state businesses and employees.
285.234. Transient employer to post notice of registration for income tax withholding, workers' compensation and unemployment insurance, violation, penalty — inapplicability to certain out-of-state businesses.
304.180. Regulations as to weight — axle load, tandem axle defined — idle reduction technology, increase in maximum gross weight permitted, amount — hauling livestock or milk, total gross weight permitted — requirements during disasters.

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

SECTION A. ENACTING CLAUSE. — Sections 143.041, 143.071, 143.191, 144.610, 285.230, 285.232, 285.233, 285.234, and 304.180, RSMo, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 143.041, 143.071, 143.191, 144.610, 190.270, 190.275, 190.280, 190.285, 190.286, 285.230, 285.232, 285.233, 285.234, and 304.180, to read as follows:

143.041. NONRESIDENT INDIVIDUAL — INAPPLICABLE TO OUT-OF-STATE BUSINESSES AND EMPLOYEES, WHEN. — **1.** A tax is hereby imposed for every taxable year on the income of every nonresident individual which is derived from sources within this state. The tax shall be that amount which bears the same ratio to the tax applicable to the individual if he would have been a resident as (A) his Missouri nonresident adjusted gross income as determined under section 143.181 (Missouri adjusted gross income derived from sources within this state) bears to (B) his Missouri adjusted gross income derived from all sources.

2. The provisions of this section shall not apply to out-of-state businesses or out-of-state employees operating under sections 190.270 to 190.285.

143.071. CORPORATIONS — INAPPLICABLE TO OUT-OF-STATE BUSINESSES, WHEN. — 1. For all tax years beginning before September 1, 1993, a tax is hereby imposed upon the Missouri taxable income of corporations in an amount equal to five percent of Missouri taxable income.

2. For all tax years beginning on or after September 1, 1993, a tax is hereby imposed upon the Missouri taxable income of corporations in an amount equal to six and one-fourth percent of Missouri taxable income.

3. The provisions of this section shall not apply to out-of-state businesses operating under sections 190.270 to 190.285.

143.191. EMPLOYER TO WITHHOLD TAX FROM WAGES — ARMED SERVICES, WITHHOLDING FROM WAGES OR RETIREMENT — FEDERAL CIVIL SERVICE RETIREMENT,

WITHHOLDING AUTHORIZED, WHEN — INAPPLICABLE TO OUT-OF-STATE BUSINESSES, WHEN. — 1. Every employer maintaining an office or transacting any business within this state and making payment of any wages taxable under sections 143.011 to 143.998 to a resident or nonresident individual shall deduct and withhold from such wages for each payroll period the amount provided in subsection 3 of this section.

2. The term "wages" referred to in subsection 1 of this section means wages as defined by section 3401(a) of the Internal Revenue Code of 1986, as amended. The term "employer" means any person, firm, corporation, association, fiduciary of any kind, or other type of organization for whom an individual performs service as an employee, except that if the person or organization for whom the individual performs service does not have control of the payment of compensation for such service, the term "employer" means the person having control of the payment of the compensation. The term includes the United States, this state, other states, and all agencies, instrumentalities, and subdivisions of any of them.

3. The method of determining the amount to be withheld shall be prescribed by regulations of the director of revenue. The prescribed table, percentages, or other method shall result, so far as practicable, in withholding from the employee's wages during each calendar year an amount substantially equivalent to the tax reasonably estimated to be due from the employee under sections 143.011 to 143.998 with respect to the amount of such wages included in his Missouri adjusted gross income during the calendar year.

4. For purposes of this section an employee shall be entitled to the same number of personal and dependency withholding exemptions as the number of exemptions to which he is entitled for federal income tax withholding purposes. An employer may rely upon the number of federal withholding exemptions claimed by the employee, except where the employee provides the employer with a form claiming a different number of withholding exemptions in this state.

5. The director of revenue may enter into agreements with the tax departments of other states (which require income tax to be withheld from the payment of wages) so as to govern the amounts to be withheld from the wages of residents of such states under this section. Such agreements may provide for recognition of anticipated tax credits in determining the amounts to be withheld and, under regulations prescribed by the director of revenue, may relieve employers in this state from withholding income tax on wages paid to nonresident employees. The agreements authorized by this subsection are subject to the condition that the tax department of such other states grant similar treatment to residents of this state.

6. The director of revenue shall enter into agreements with the Secretary of the Treasury of the United States or with the appropriate secretaries of the respective branches of the Armed Forces of the United States for the withholding, as required by subsections 1 and 2 of this section, of income taxes due the state of Missouri on wages or other payments for service in the armed services of the United States or on payments received as retirement or retainer pay of any member or former member of the Armed Forces entitled to such pay.

7. Subject to appropriations for the purpose of implementing this section, the director of revenue shall comply with provisions of the laws of the United States as amended and the regulations promulgated thereto in order that all residents of this state receiving monthly retirement income as a civil service annuitant from the federal government taxable by this state may have withheld monthly from any such moneys, whether pension, annuities or otherwise, an amount for payment of state income taxes as required by state law, but such withholding shall not be less than twenty-five dollars per quarter.

8. The provisions of this section shall not apply to out-of-state businesses operating under sections 190.270 to 190.285.

144.610. TAX IMPOSED, PROPERTY SUBJECT, EXCLUSIONS, WHO LIABLE — INAPPLICABLE TO OUT-OF-STATE BUSINESSES AND EMPLOYEES, WHEN. — 1. A tax is imposed for the privilege of storing, using or consuming within this state any article of tangible personal property, excluding motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats,

and outboard motors required to be titled under the laws of the state of Missouri and subject to tax under subdivision (9) of subsection 1 of section 144.020, purchased on or after the effective date of sections 144.600 to 144.745 in an amount equivalent to the percentage imposed on the sales price in the sales tax law in section 144.020. This tax does not apply with respect to the storage, use or consumption of any article of tangible personal property purchased, produced or manufactured outside this state until the transportation of the article has finally come to rest within this state or until the article has become commingled with the general mass of property of this state.

2. Every person storing, using or consuming in this state tangible personal property subject to the tax in subsection 1 of this section is liable for the tax imposed by this law, and the liability shall not be extinguished until the tax is paid to this state, but a receipt from a vendor authorized by the director of revenue under the rules and regulations that he prescribes to collect the tax, given to the purchaser in accordance with the provisions of section 144.650, relieves the purchaser from further liability for the tax to which receipt refers.

3. Because this section no longer imposes a Missouri use tax on the storage, use, or consumption of motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats, and outboard motors required to be titled under the laws of the state of Missouri, in that the state sales tax is now imposed on the titling of such property, the local sales tax, rather than the local use tax, applies.

4. The provisions of this section shall not apply to out-of-state businesses or out-of-state employees operating under sections 190.270 to 190.285.

190.270. CITATION OF LAW. — Sections 190.270 to 190.285 shall be known and may be cited as the "Facilitating Business Rapid Response to State Declared Disasters Act".

190.275. DEFINITIONS. — As used in sections 190.270 to 190.285, unless the context clearly indicates otherwise, the following terms shall mean:

(1) "Declared state disaster" or "emergency", a disaster or emergency event for which a governor's state of emergency proclamation has been issued or that the President of the United States has declared to be a major disaster or emergency;

(2) "Disaster period", the period of time that begins ten days before the governor's proclamation of a state of emergency or the declaration by the President of the United States of a major disaster or emergency, whichever occurs first, and extending for a period of sixty calendar days following the end of the period specified in the proclamation or declaration or sixty calendar days from the proclamation or declaration if no end is provided. The governor may extend the disaster period as warranted;

(3) "Infrastructure", property and equipment owned or used by a public utility, communications network, broadband and internet service provider, cable and video service provider, gas distribution system, or water pipeline that provides service to more than one customer or person, including related support facilities. Infrastructure includes real and personal property such as buildings, offices, power lines, cable lines, poles, communication lines, pipes, structures, and equipment; and

(4) "Out-of-state business", a business entity:

(a) That does not have a presence in the state;

(b) That does not conduct business in the state;

(c) That has no registrations, tax filings, or nexus in the state before the declared disaster or emergency; and

(d) Whose assistance in repairing, renovating, installing, or building infrastructure related to a declared state disaster or emergency is requested by the state, a county, city, town, or other political subdivision of the state or a registered business that owns or uses infrastructure as defined in this section.

Out-of-state business includes a business entity that is affiliated with a registered business solely through common ownership as long as that business entity does not have any registrations, tax filings, or nexus in the state before the declared state disaster or emergency. For purposes of this section, a prior registration as an out-of-state business for a declared disaster or emergency shall not be considered a registration in this state.

(5) "Out-of-state employee", an individual who does not work in the state except for disaster or emergency related work during a disaster period;

(6) "Registered business", a business entity that is registered or licensed to do business in the state before the declared state disaster or emergency.

190.280. OUT-OF-STATE BUSINESSES NOT SUBJECT TO CERTAIN STATE OR LOCAL REQUIREMENTS — OUT-OF-STATE EMPLOYEE NOT A RESIDENT FOR TAX PURPOSES — LIMITATIONS. — 1. An out-of-state business that conducts operations within the state for purposes of assisting in repairing, renovating, installing, or building infrastructure related to a declared state disaster or emergency during the disaster period shall not be considered to have established a level of presence that would subject the business or any of its out-of-state employees to any of the following state or local employment, licensing, or registration requirements:

(1) Except as set forth in section 190.285, registration with the secretary of state;

(2) Withholding or income tax registration, filing, or remitting requirements; and

(3) Use tax on equipment used or consumed during the disaster period if such equipment does not remain in the state after the disaster period.

2. An out-of-state employee shall not be considered to have established residency or a presence in the state that would require that person or that person's employer to file and pay income taxes, to be subjected to tax withholdings, or to file and pay any other state or local income or withholding tax or fee for work repairing, renovating, installing, or building infrastructure during the disaster period.

3. After the conclusion of a disaster period, an out-of-state business or out-of-state employee that remains in the state is fully subject to the state or local employment, licensing, or registration requirements listed in this section or that were otherwise suspended under sections 190.270 to 190.285 during the disaster period.

190.285. NOTIFICATION TO SECRETARY OF STATE BY OUT-OF-STATE BUSINESS REQUIRED, WHEN, CONTENT — INFORMATION PROVIDED TO DEPARTMENT OF REVENUE, WHEN. — 1. An out-of-state business shall provide notification to the secretary of state within ten days after entry to the state during a disaster period that the out-of-state business is in the state for purposes of responding to the declared state disaster or emergency. The out-of-state business shall provide to the secretary of state information related to the out-of-state business including, but not limited to, the following:

(1) Name;

(2) State of domicile;

(3) Principal business address;

(4) Federal employer identification number;

(5) The date when the out-of-state business entered the state; and

(6) Contact information while the out-of-state business is in this state.

2. A registered business shall provide the notification required in subsection 1 of this section for an affiliate of the registered business that enters the state as an out-of-state business. The notification under this subsection also must include contact information for the registered business in the state.

3. An out-of-state business that remains in the state after a disaster period shall notify the secretary of state within ten days after the end of the disaster period and shall meet all registration, licensing, and filing requirements resulting from any business presence or activity in the state.

4. The secretary of state shall provide information received from out-of-state businesses or registered businesses under this section to the department of revenue within thirty days after receipt of notification.

190.286. INAPPLICABILITY TO CERTAIN OUT-OF-STATE BUSINESSES. — The provisions of sections 190.270 to 190.285 shall not grant exemptions authorized by the facilitating business rapid response to state declared disasters act to any out of state business performing work pursuant to a request for bid or request for proposal by a state agency or political subdivision.

285.230. TRANSIENT EMPLOYERS, DEFINED, BONDING REQUIREMENTS — EXCEPTIONS — SPECIFIC REQUIREMENTS — PENALTIES — RECORDS TO BE KEPT, HOW — DISCONTINUANCE IN ACTIVITY, NOTICE TO DIRECTOR OF REVENUE — INAPPLICABILITY TO CERTAIN OUT-OF-STATE BUSINESSES. — 1. As used in this section, "transient employer" means an employer as defined in sections 143.191, 287.030, and 288.032 making payment of wages taxable under chapters 143, 287, and 288 who is not domiciled in this state and who temporarily transacts any business within the state, but shall not include any employer who is not subject to Missouri income tax because of the provisions of 15 U.S.C. 381. The transaction of business shall be considered temporary at any time it cannot be reasonably expected to continue for a period of twenty-four consecutive months. Professional athletic teams and professional entertainers domiciled in a state other than Missouri shall be deemed a "transient employer" for the purposes of this section, unless the person or entity who pays compensation to the nonresident entertainer has fully complied with the provisions of section 143.183 in which case the nonresident entertainer shall not be considered a transient employer.

2. Employers meeting the following criteria shall not be required to file a financial assurance instrument as required by this section:

(1) The principal place of business of the employer must be in a county of another state which is contiguous to the state of Missouri; and

(2) The employer must have been under contract to perform work in Missouri for at least sixty days cumulatively out of twelve months during each of the two calendar years immediately preceding the employer's initial application for exemption from the provisions of this section; and

(3) The employer must have in his possession a tax clearance from the department of revenue and the division of employment security stating that the employer has faithfully complied with the tax laws of this state during the period set out in subdivision (2) of this subsection.

Within ninety days of August 13, 1988, such employers must obtain initial tax clearances in accordance with subdivision (3) of this subsection. Any tax clearance issued under the provisions of this section by the division of employment security shall be submitted to the department of revenue. On or before January thirty-first of each year, except January thirty-first following the year during which the employer first meets these criteria, the employer shall submit application to the department of revenue and division of employment security for a renewed tax clearance. Failure to submit such renewal applications or failure to comply with applicable Missouri taxing and employment security laws during the period between annual renewal dates or removal of the employer's principal place of business from a county in another state which is contiguous to Missouri to a state other than Missouri shall immediately subject the employer to all provisions of this section. An employer meeting the requirements of this subsection shall still be subject to the provisions of subsection 5 of this section.

3. Every transient employer shall file with the director of revenue a financial assurance instrument including, but not limited to, a cash bond, a surety bond, or an irrevocable letter of credit as defined in section 400.5-103 issued by any state or federal financial institution. The financial assurance instrument shall be in an amount not less than the average estimated quarterly

withholding tax liability of the applicant, but in no case less than five thousand dollars nor more than twenty-five thousand dollars. Any corporate surety shall be licensed to do such business in this state and approved by the director of revenue to act as a surety. The transient employer shall be the principal obligor and the state of Missouri shall be the obligee. The financial assurance instrument shall be conditioned upon the prompt filing of true reports and the payment by such employer to the director of revenue of any and all withholding taxes which are now or which hereafter may be levied or imposed by the state of Missouri, upon the employer, together with any and all penalties and interest thereon, and generally upon the faithful compliance with the provisions of chapters 143, 287, and 288.

4. Any transient employer who is already otherwise required to file a financial assurance instrument as a condition of any contract, provided said financial assurance instrument guarantees payment of all applicable state taxes and all withholding taxes levied or imposed by the state and provided that such financial assurance instrument is delivered by certified mail to the department of revenue by the applicable awarding entity at least fourteen days before the execution of the contract for the performance of work, may use the same financial assurance instrument to comply with the provisions of this section. Before such financial assurance instrument is approved by the awarding entity, the director of revenue shall be satisfied that such financial assurance instrument is sufficient to cover all taxes imposed by this state and the director shall so notify the awarding entity of the decision within the fourteen days prior to the execution of the contract. Failure to do so by the director shall waive any right to disapprove such financial assurance instrument. Before a financial assurance instrument is released by the entity awarding the contract, a tax clearance shall be obtained from the director of revenue that such transient employer has faithfully complied with all the tax laws of this state.

5. Every transient employer shall certify to the director of revenue that such employer has sufficient workers' compensation insurance either through a self-insurance program or a policy of workers' compensation insurance issued by an approved workers' compensation carrier. The self-insurance program shall be approved by the division of workers' compensation pursuant to section 287.280. The insurance policy shall be in a contract form approved by the department of insurance, financial institutions and professional registration.

6. In the event that liability upon the financial assurance instrument thus filed by the transient employer shall be discharged or reduced, whether by judgment rendered, payment made or otherwise, or if in the opinion of the director of revenue any surety on a bond theretofore given or financial institution shall have become unsatisfactory or unacceptable, then the director of revenue may require the employer to file a new financial assurance instrument in the same form and amount. If such new financial assurance instrument shall be furnished by such employer as above provided, the director of revenue shall upon satisfaction of any liability that has accrued, release the surety on the old bond or financial institution issuing the irrevocable letter of credit.

7. Any surety on any bond or financial institution issuing an irrevocable letter of credit furnished by any transient employer as provided in this section shall be released and discharged from any and all liability to the state of Missouri accruing on such bond or irrevocable letter of credit after the expiration of sixty days from the date upon which such surety or financial institution shall have lodged with the director of revenue a written request to be released and discharged; but the request shall not operate to relieve, release or discharge such surety or financial institution from any liability already accrued or which shall accrue during and before the expiration of said sixty-day period. The director of revenue shall promptly on receipt of notice of such request notify the employer who furnished such bond or irrevocable letter of credit and such employer shall on or before the expiration of such sixty-day period file with the director of revenue a new financial assurance instrument satisfactory to the director of revenue in the amount and form provided in this section.

8. Notwithstanding the limitation as to the amount of any financial assurance instrument fixed by this section, if a transient employer becomes delinquent in the payment of any tax or

tenders a check in payment of tax which check is returned unpaid because of insufficient funds, the director may demand an additional instrument of such employer in an amount necessary, in the judgment of the director, to protect the revenue of the state. The penal sum of the additional instrument and the instrument furnished under the provisions of the law requiring such instrument may not exceed two quarters' estimated tax liability.

9. For any period when a transient employer fails to meet the requirements of this section, there shall be added to any deficiency assessed against a transient employer, in addition to any other addition, interest, and penalties, an amount equal to twenty-five percent of the deficiency.

10. A taxpayer commits the crime of failure to file a financial assurance instrument if he knowingly fails to comply with the provisions of this section.

11. Failure to file a financial assurance instrument is a class A misdemeanor. Pursuant to section 560.021, a corporation found guilty of failing to file a financial assurance instrument may be fined up to five thousand dollars or any higher amount not exceeding twice the amount the employer profited from the commission of the offense.

12. Failing to register with the department of revenue and execute the financial assurance instrument herein provided, prior to beginning the performance of any contract, shall prohibit the employer from performing on such contract until he complies with such requirements.

13. Each employer shall keep full and accurate records clearly indicating the names, occupations, and crafts, if applicable, of every person employed by him together with an accurate record of the number of hours worked by each employee and the actual wages paid. The payroll records required to be so kept shall be open to inspection by any authorized representative of the department of revenue at any reasonable time and as often as may be necessary and such records shall not be destroyed or removed from the state for a period of one year following the completion of the contract in connection with which the records are made.

14. The entering into of any contract for the performance of work in the state of Missouri by any such employer shall be deemed to constitute an appointment of the secretary of state as registered agent of such employer for purposes of accepting service of any process, or of any notice or demand required or permitted by law. The service of any such process, notice or demand, when served on the secretary of state shall have the same legal force and validity as if served upon the employer personally within the state.

15. In addition, any employer who fails to file a financial assurance instrument as required by this section shall be prohibited from contracting for or performing labor on any public works project in this state for a period of one year.

16. Whenever a transient employer ceases to engage in activity within the state it shall be the duty of such transient employer to notify the director of revenue in writing at least ten days prior to the time the discontinuance takes effect.

17. The provisions of this section shall not apply to out-of-state businesses operating under sections 190.270 to 190.285.

285.232. CONSTRUCTION CONTRACTORS, WHO ARE TRANSIENT EMPLOYERS, PROOF AND FINANCIAL ASSURANCE REQUIRED — LIST OF CONTRACTORS TO BE PUBLISHED — INAPPLICABILITY TO CERTAIN OUT-OF-STATE BUSINESSES. — 1. Subject to the provisions of section 285.230, any county, city, town, village or any other political subdivision which requires a building permit for a person to perform certain construction projects shall require a transient employer to show proof that the employer has been issued a tax clearance and has filed a financial assurance instrument as required by section 285.230 before such entity issues a building permit to the transient employer. If any transient employer obtains a building permit without providing such proof, provides a fraudulently obtained tax clearance or a fraudulent financial assurance instrument or through any misrepresentation or any other fraudulent act or in any way violates the provisions of sections 285.230 to 285.234, the Missouri department of revenue shall request a temporary restraining order or seek injunctive relief to immediately prohibit further performance of work by the transient employer on such contract or project. The court may direct

that any payments due such transient employer be equitably distributed in satisfaction of the transient employer's obligations pursuant to sections 285.230 to 285.234. Upon issuance of such order by a court of competent jurisdiction, the person for whom the work is being performed may engage another contractor as provided by law or any provision of contract and the person shall not be deemed to be in violation of the contract with such transient employer removed by the court. Nothing in this section shall be construed to create or constitute a liability to or a cause of action against a city or county in regard to the issuance of any license pursuant to this section.

2. Any contractor for private or public construction work in this state which contracts with or otherwise engages a subcontractor, which is deemed a transient employer as defined in section 285.230, to perform any portion of such work, shall require such subcontractor to show proof of having filed a financial assurance instrument with the director of revenue as required by section 285.230 and to show proof that the subcontractor holds a current valid certificate of insurance for workers' compensation coverage in this state, prior to the subcontractor performing any work on the project. If the subcontractor is self-insured for purposes of workers' compensation, the contractor shall require proof that such self-insurance by the subcontractor has been approved by the division of workers' compensation. The contractor shall not allow the subcontractor to perform on such contract until proof of compliance as required by this section has been provided to the contractor. If a subcontractor which is deemed to be a transient employer has previously submitted proof of compliance as required by this section to a state agency or political subdivision for which the contract is being performed as a condition of being qualified to perform work for such agency or political subdivision, the general contractor shall not be required to obtain the proofs required by this section. If at any time prior to final payment to a subcontractor for work performed on a project, a contractor is notified in writing by the director of revenue or the director of the division of workers' compensation that a subcontractor is in violation of sections 285.230 to 285.234, the contractor shall withhold all or part of any payment to the subcontractor under the contract for payment in satisfaction of the subcontractor's obligations as a transient employer if so directed by the director of revenue or the director of the division of workers' compensation. Any contractor withholding payment and paying such funds in satisfaction of the subcontractor's obligations as a transient employer if so directed by the director of revenue or the director of the division of workers' compensation. Any contractor withholding payment and paying such funds in satisfaction of the subcontractor's obligations as a transient employer shall be deemed in compliance with the contract with the subcontractor to the extent of the amount paid to fulfill such obligation and with the laws of this state regarding timely payment under construction contracts and shall not be subject to any civil or criminal penalty for withholding such payment.

3. Notwithstanding the provision of section 32.057, the Missouri department of revenue shall at least quarterly submit for publication in the Missouri Register a list of construction contractors performing work on construction projects in Missouri who are known by the department to be deemed transient employers pursuant to section 285.230. The department shall also update such list monthly and make such list available upon request without cost to any person.

4. The provisions of this section shall not apply to out-of-state businesses operating under sections 190.270 to 190.285.

285.233. TRANSIENT EMPLOYERS NOT FILING FINANCIAL ASSURANCE, ESCROW REQUIREMENTS — FAILURE OF POLITICAL SUBDIVISION OR PRIVATE ENTITY TO ESCROW FUNDS, PENALTIES — TRANSIENT EMPLOYER NOT IN COMPLIANCE WITH LAW, WRIT OF ATTACHMENT OR INJUNCTION AUTHORIZED — INAPPLICABILITY TO CERTAIN OUT-OF-STATE BUSINESSES AND EMPLOYEES. — 1. Any transient employer, as defined in this chapter, failing to conclusively show at any time that he has complied with the provisions of section 285.230, relating to the filing of a financial assurance instrument, shall, before beginning performance on any contract made with a political subdivision, deposit with that political

subdivision an amount equal to twenty percent of labor costs as specified in such contract which will be held in escrow by the political subdivision and payable only to the department of revenue, the division of employment security or the division of workers' compensation after the actual amount of tax liability is determined. In the event that labor costs are not separately stated in the contract, the amount to be held in escrow shall be ten percent of the contract amount. Any amount remaining in the escrow fund after payments are made shall be refunded to the contractor. Failure of a political subdivision to properly escrow funds required under this section will make it ineligible to receive state funds for public works projects for a period of one year from the date the infraction is discovered.

2. Any transient employer failing to conclusively show at any time that he has complied with the provisions of section 285.230, relating to the filing of a financial assurance instrument, shall, before beginning performance on any contract made with a private entity deposit with that private entity an amount equal to twenty percent of labor costs as specified in such contract which will be held in escrow by the private entity and payable only to the department of revenue, the division of employment security or the division of workers' compensation after the actual amount of tax liability is determined. In the event that labor costs are not separately stated in the contract, the amount to be held in escrow shall be ten percent of the contract amount. Any amount remaining in the escrow fund after payments are made shall be refunded to the contractor. Failure of a private entity to properly escrow funds required under this section shall make such entity liable for the full amount of the state withholding, workers' compensation, and employment security tax liability resulting from the transient employers' contract with that private entity.

3. In addition to any other penalty, interest, or remedy imposed by this section, any transient employer that fails to post a financial assurance instrument or escrow funds as provided for in this section shall be subject to a writ of attachment as provided for in chapter 521 or any other injunctive relief provided for by law.

4. The provisions of this section shall not apply to out-of-state businesses or out-of-state employees operating under sections 190.270 to 190.285.

285.234. TRANSIENT EMPLOYER TO POST NOTICE OF REGISTRATION FOR INCOME TAX WITHHOLDING, WORKERS' COMPENSATION AND UNEMPLOYMENT INSURANCE, VIOLATION, PENALTY — INAPPLICABILITY TO CERTAIN OUT-OF-STATE BUSINESSES. — 1. Every transient employer, as defined in section 285.230 shall post in a prominent and easily accessible place at the work site a clearly legible copy of the following:

(1) The notice of registration for employer withholding issued to such transient employer by the director of revenue;

(2) Proof of coverage for workers' compensation insurance or self-insurance signed by the transient employer and verified by the department of revenue through the records of the division of workers' compensation; and

(3) The notice of registration for unemployment insurance issued to such transient employer by the division of employment security.

2. Any transient employer failing to comply with the provisions of this section shall be liable for a penalty of five hundred dollars per day until the notices required by this section are posted as provided by this section.

3. The provisions of this section shall not apply to out-of-state businesses operating under sections 190.270 to 190.285.

304.180. REGULATIONS AS TO WEIGHT — AXLE LOAD, TANDEM AXLE DEFINED — IDLE REDUCTION TECHNOLOGY, INCREASE IN MAXIMUM GROSS WEIGHT PERMITTED, AMOUNT — HAULING LIVESTOCK OR MILK, TOTAL GROSS WEIGHT PERMITTED — REQUIREMENTS DURING DISASTERS. — 1. No vehicle or combination of vehicles shall be moved or operated on any highway in this state having a greater weight than twenty thousand pounds on one axle,

no combination of vehicles operated by transporters of general freight over regular routes as defined in section 390.020 shall be moved or operated on any highway of this state having a greater weight than the vehicle manufacturer's rating on a steering axle with the maximum weight not to exceed twelve thousand pounds on a steering axle, and no vehicle shall be moved or operated on any state highway of this state having a greater weight than thirty-four thousand pounds on any tandem axle; the term "tandem axle" shall mean a group of two or more axles, arranged one behind another, the distance between the extremes of which is more than forty inches and not more than ninety-six inches apart.

2. An "axle load" is defined as the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes forty inches apart, extending across the full width of the vehicle.

3. Subject to the limit upon the weight imposed upon a highway of this state through any one axle or on any tandem axle, the total gross weight with load imposed by any group of two or more consecutive axles of any vehicle or combination of vehicles shall not exceed the maximum load in pounds as set forth in the following table:

Distance in feet between the extremes of any group of two or more consecutive axles, measured to the nearest foot, except where indicated otherwise	Maximum load in pounds				
feet	2 axles	3 axles	4 axles	5 axles	6 axles
4	34,000				
5	34,000				
6	34,000				
7	34,000				
8	34,000	34,000			
More than 8	38,000	42,000			
9	39,000	42,500			
10	40,000	43,500			
11	40,000	44,000			
12	40,000	45,000	50,000		
13	40,000	45,500	50,500		
14	40,000	46,500	51,500		
15	40,000	47,000	52,000		
16	40,000	48,000	52,500	58,000	
17	40,000	48,500	53,500	58,500	
18	40,000	49,500	54,000	59,000	
19	40,000	50,000	54,500	60,000	
20	40,000	51,000	55,500	60,500	66,000
21	40,000	51,500	56,000	61,000	66,500
22	40,000	52,500	56,500	61,500	67,000
23	40,000	53,000	57,500	62,500	68,000
24	40,000	54,000	58,000	63,000	68,500
25	40,000	54,500	58,500	63,500	69,000
26	40,000	55,500	59,500	64,000	69,500
27	40,000	56,000	60,000	65,000	70,000
28	40,000	57,000	60,500	65,500	71,000
29	40,000	57,500	61,500	66,000	71,500
30	40,000	58,500	62,000	66,500	72,000
31	40,000	59,000	62,500	67,500	72,500
32	40,000	60,000	63,500	68,000	73,000
33	40,000	60,000	64,000	68,500	74,000
34	40,000	60,000	64,500	69,000	74,500
35	40,000	60,000	65,500	70,000	75,000
36		60,000	66,000	70,500	75,500
37		60,000	66,500	71,000	76,000
38		60,000	67,500	72,000	77,000
39		60,000	68,000	72,500	77,500
40		60,000	68,500	73,000	78,000
41		60,000	69,500	73,500	78,500
42		60,000	70,000	74,000	79,000
43		60,000	70,500	75,000	80,000
44		60,000	71,500	75,500	80,000
45		60,000	72,000	76,000	80,000

46	60,000	72,500	76,500	80,000
47	60,000	73,500	77,500	80,000
48	60,000	74,000	78,000	80,000
49	60,000	74,500	78,500	80,000
50	60,000	75,500	79,000	80,000
51	60,000	76,000	80,000	80,000
52	60,000	76,500	80,000	80,000
53	60,000	77,500	80,000	80,000
54	60,000	78,000	80,000	80,000
55	60,000	78,500	80,000	80,000
56	60,000	79,500	80,000	80,000
57	60,000	80,000	80,000	80,000

Notwithstanding the above table, two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each if the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more.

4. Whenever the state highways and transportation commission finds that any state highway bridge in the state is in such a condition that use of such bridge by vehicles of the weights specified in subsection 3 of this section will endanger the bridge, or the users of the bridge, the commission may establish maximum weight limits and speed limits for vehicles using such bridge. The governing body of any city or county may grant authority by act or ordinance to the state highways and transportation commission to enact the limitations established in this section on those roadways within the purview of such city or county. Notice of the weight limits and speed limits established by the commission shall be given by posting signs at a conspicuous place at each end of any such bridge.

5. Nothing in this section shall be construed as permitting lawful axle loads, tandem axle loads or gross loads in excess of those permitted under the provisions of Section 127 of Title 23 of the United States Code.

6. Notwithstanding the weight limitations contained in this section, any vehicle or combination of vehicles operating on highways other than the interstate highway system may exceed single axle, tandem axle and gross weight limitations in an amount not to exceed two thousand pounds. However, total gross weight shall not exceed eighty thousand pounds, except as provided in subsections 9 and 10 of this section.

7. Notwithstanding any provision of this section to the contrary, the department of transportation shall issue a single-use special permit, or upon request of the owner of the truck or equipment, shall issue an annual permit, for the transporting of any concrete pump truck or well-drillers' equipment. The department of transportation shall set fees for the issuance of permits pursuant to this subsection. Notwithstanding the provisions of section 301.133, concrete pump trucks or well-drillers' equipment may be operated on state-maintained roads and highways at any time on any day.

8. Notwithstanding the provision of this section to the contrary, the maximum gross vehicle limit and axle weight limit for any vehicle or combination of vehicles equipped with an idle reduction technology may be increased by a quantity necessary to compensate for the additional weight of the idle reduction system as provided for in 23 U.S.C. Section 127, as amended. In no case shall the additional weight increase allowed by this subsection be greater than five hundred fifty pounds. Upon request by an appropriate law enforcement officer, the vehicle operator shall provide proof that the idle reduction technology is fully functional at all times and that the gross weight increase is not used for any purpose other than for the use of idle reduction technology.

9. Notwithstanding subsection 3 of this section or any other provision of law to the contrary, the total gross weight of any vehicle or combination of vehicles hauling livestock may be as much as, but shall not exceed, eighty-five thousand five hundred pounds while operating on U.S. Highway 36 from St. Joseph to U.S. Highway 63, on U.S. Highway 65 from the Iowa state line to U.S. Highway 36, and on U.S. Highway 63 from the Iowa state line to U.S. Highway 36, and on U.S. Highway 63 from U.S. Highway 36 to Missouri Route 17. The

provisions of this subsection shall not apply to vehicles operated on the Dwight D. Eisenhower System of Interstate and Defense Highways.

10. Notwithstanding any provision of this section or any other law to the contrary, the total gross weight of any vehicle or combination of vehicles hauling milk from a farm to a processing facility may be as much as, but shall not exceed, eighty-five thousand five hundred pounds while operating on highways other than the interstate highway system. The provisions of this subsection shall not apply to vehicles operated and operating on the Dwight D. Eisenhower System of Interstate and Defense Highways.

11. Notwithstanding any provision of this section or any other law to the contrary, the department of transportation shall issue emergency utility response permits for the transporting of utility wires or cables, poles, and equipment needed for repair work immediately following a disaster where utility service has been disrupted. Under exigent circumstances, verbal approval of such operation may be made either by the motor carrier compliance supervisor or other designated motor carrier services representative. Utility vehicles and equipment used to assist utility companies granted special permits under this subsection may be operated and transported on state-maintained roads and highways at any time on any day. The department of transportation shall promulgate all necessary rules and regulations for the administration of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2014, shall be invalid and void.

Approved July 3, 2014

HB 1201 [SCS HCS HB 1201]

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

Changes the laws regarding surface mining operations

AN ACT to repeal sections 444.772 and 444.773, RSMo, and to enact in lieu thereof two new sections relating to surface mining.

SECTION

A. Enacting clause.
444.772. Permit — application, contents, fees — amendment, how made — successor operator, duties of — fees expire, when.
444.773. Director to investigate applications — decision to issue or deny — denial of permit, appeal, procedure — commission to make recommendation, issue decision.

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

SECTION A. ENACTING CLAUSE. — Sections 444.772 and 444.773, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 444.772 and 444.773, to read as follows:

444.772. PERMIT — APPLICATION, CONTENTS, FEES — AMENDMENT, HOW MADE — SUCCESSOR OPERATOR, DUTIES OF — FEES EXPIRE, WHEN. — 1. Any operator desiring to engage in surface mining shall make written application to the director for a permit.

2. Application for permit shall be made on a form prescribed by the commission and shall include:

(1) The name of all persons with any interest in the land to be mined;

(2) The source of the applicant's legal right to mine the land affected by the permit;

(3) The permanent and temporary post office address of the applicant;

(4) Whether the applicant or any person associated with the applicant holds or has held any other permits pursuant to sections 444.500 to 444.790, and an identification of such permits;

(5) The written consent of the applicant and any other persons necessary to grant access to the commission or the director to the area of land affected under application from the date of application until the expiration of any permit granted under the application and thereafter for such time as is necessary to assure compliance with all provisions of sections 444.500 to 444.790 or any rule or regulation promulgated pursuant to them. Permit applications submitted by operators who mine an annual tonnage of less than ten thousand tons shall be required to include written consent from the operator to grant access to the commission or the director to the area of land affected;

(6) A description of the tract or tracts of land and the estimated number of acres thereof to be affected by the surface mining of the applicant for the next succeeding twelve months; and

(7) Such other information that the commission may require as such information applies to land reclamation.

3. The application for a permit shall be accompanied by a map in a scale and form specified by the commission by regulation.

4. The application shall be accompanied by a bond, security or certificate meeting the requirements of section 444.778, a geologic resources fee authorized under section 256.700, and a permit fee approved by the commission not to exceed one thousand dollars. The commission may also require a fee for each site listed on a permit not to exceed four hundred dollars for each site. If mining operations are not conducted at a site for six months or more during any year, the fee for such site for that year shall be reduced by fifty percent. The commission may also require a fee for each acre bonded by the operator pursuant to section 444.778 not to exceed twenty dollars per acre. If such fee is assessed, the per-acre fee on all acres bonded by a single operator that exceed a total of two hundred acres shall be reduced by fifty percent. In no case shall the total fee for any permit be more than three thousand dollars. Permit and renewal fees shall be established by rule, except for the initial fees as set forth in this subsection, and shall be set at levels that recover the cost of administering and enforcing sections 444.760 to 444.790, making allowances for grants and other sources of funds. The director shall submit a report to the commission and the public each year that describes the number of employees and the activities performed the previous calendar year to administer sections 444.760 to 444.790. For any operator of a gravel mining operation where the annual tonnage of gravel mined by such operator is less than five thousand tons, the total cost of submitting an application shall be three hundred dollars. The issued permit shall be valid from the date of its issuance until the date specified in the mine plan unless sooner revoked or suspended as provided in sections 444.760 to 444.790. Beginning August 28, 2007, the fees shall be set at a permit fee of eight hundred dollars, a site fee of four hundred dollars, and an acre fee of ten dollars, with a maximum fee of three thousand dollars. Fees may be raised as allowed in this subsection after a regulation change that demonstrates the need for increased fees.

5. An operator desiring to have his or her permit amended to cover additional land may file an amended application with the commission. Upon receipt of the amended application, and such additional fee and bond as may be required pursuant to the provisions of sections 444.760 to 444.790, the director shall, if the applicant complies with all applicable regulatory requirements, issue an amendment to the original permit covering the additional land described in the amended application.

6. An operation may withdraw any land covered by a permit, excepting affected land, by notifying the commission thereof, in which case the penalty of the bond or security filed by the

operator pursuant to the provisions of sections 444.760 to 444.790 shall be reduced proportionately.

7. Where mining or reclamation operations on acreage for which a permit has been issued have not been completed, the permit shall be renewed. The operator shall submit a permit renewal form furnished by the director for an additional permit year and pay a fee equal to an application fee calculated pursuant to subsection 4 of this section, but in no case shall the renewal fee for any operator be more than three thousand dollars. For any operator involved in any gravel mining operation where the annual tonnage of gravel mined by such operator is less than five thousand tons, the permit as to such acreage shall be renewed by applying on a permit renewal form furnished by the director for an additional permit year and payment of a fee of three hundred dollars. Upon receipt of the completed permit renewal form and fee from the operator, the director shall approve the renewal. With approval of the director and operator, the permit renewal may be extended for a portion of an additional year with a corresponding prorating of the renewal fee.

8. Where one operator succeeds another at any uncompleted operation, either by sale, assignment, lease or otherwise, the commission may release the first operator from all liability pursuant to sections 444.760 to 444.790 as to that particular operation if both operators have been issued a permit and have otherwise complied with the requirements of sections 444.760 to 444.790 and the successor operator assumes as part of his or her obligation pursuant to sections 444.760 to 444.790 all liability for the reclamation of the area of land affected by the former operator.

9. The application for a permit shall be accompanied by a plan of reclamation that meets the requirements of sections 444.760 to 444.790 and the rules and regulations promulgated pursuant thereto, and shall contain a verified statement by the operator setting forth the proposed method of operation, reclamation, and a conservation plan for the affected area including approximate dates and time of completion, and stating that the operation will meet the requirements of sections 444.760 to 444.790, and any rule or regulation promulgated pursuant to them.

10. At the time that a permit application is deemed complete by the director, the operator shall publish a notice of intent to operate a surface mine in any newspaper qualified pursuant to section 493.050 to publish legal notices in any county where the land is located. If the director does not respond to a permit application within forty-five calendar days, the application shall be deemed to be complete. Notice in the newspaper shall be posted once a week for four consecutive weeks beginning no more than ten days after the application is deemed complete. The operator shall also send notice of intent to operate a surface mine by certified mail to the governing body of the counties or cities in which the proposed area is located, and to the last known addresses of all record landowners **[**of contiguous real property or real property located adjacent to the proposed mine plan area**]** **whose property is:**

(1) Within two thousand six hundred forty feet, or one-half mile from the border of the proposed mine plan area; and

(2) Adjacent to the proposed mine plan area, land upon which the mine plan area is located, or adjacent land having a legal relationship with either the applicant or the owner of the land upon which the mine plan area is located.

The notices shall include the name and address of the operator, a legal description consisting of county, section, township and range, the number of acres involved, a statement that the operator plans to mine a specified mineral during a specified time, and the address of the commission. The notices shall also contain a statement that any person with a direct, personal interest in one or more of the factors the **[**commission**]** **director** may consider in issuing a permit may request a public meeting**[**, a public hearing**]** or file written comments to the director no later than fifteen days following the final public notice publication date. **If any person requests a public meeting, the applicant shall cooperate with the director in making all necessary**

arrangements for the public meeting to be held in a reasonably convenient location and at a reasonable time for interested participants, and the applicant shall bear the expenses.

11. The **[**commission**]** **director** may approve a permit application or permit amendment whose operation or reclamation plan deviates from the requirements of sections 444.760 to 444.790 if it can be demonstrated by the operator that the conditions present at the surface mining location warrant an exception. The criteria accepted for consideration when evaluating the merits of an exception or variance to the requirements of sections 444.760 to 444.790 shall be established by regulations.

12. Fees imposed pursuant to this section shall become effective August 28, 2007, and shall expire on December 31, 2018. No other provisions of this section shall expire.

444.773. DIRECTOR TO INVESTIGATE APPLICATIONS — DECISION TO ISSUE OR DENY — DENIAL OF PERMIT, APPEAL, PROCEDURE — COMMISSION TO MAKE RECOMMENDATION, ISSUE DECISION. — 1. All applications for a permit shall be filed with the director, who shall promptly investigate the application and make a **[**recommendation to the commission**]** **decision** within **[**four**]** **six** weeks after **completion of** the **[**public notice period**]** **process** provided in **subsection 10 of** section 444.772 **[**expires as to whether**]** **to issue or deny** the permit **[**should be issued or denied**]**. If the director determines that the application has not fully complied with the provisions of section 444.772 or any rule or regulation promulgated pursuant to that section, the director **[**shall recommend denial of**]** **may seek additional information from the applicant before making a decision to issue or deny** the permit. The director shall consider any **[**written**]** **public** comments when making **[**his or her recommendation to the commission on the issuance or denial of**]** **the decision to issue or deny** the permit. **In issuing a permit, the director may impose reasonable conditions consistent with the provisions of sections 444.760 to 444.790.**

2. **[**If the recommendation of the director is to deny the permit, a hearing as provided in sections 444.760 to 444.790, if requested by the applicant within fifteen days of the date of notice of recommendation of the director, shall be held by the commission.

3. If the recommendation of the director is for issuance of the permit, the director shall issue the permit without a public meeting or a hearing except that upon petition, received prior to the date of the notice of recommendation, from any person whose health, safety or livelihood will be unduly impaired by the issuance of this permit, a public meeting or a hearing may be held. If a public meeting is requested pursuant to this chapter and the applicant agrees, the director shall, within thirty days after the time for such request has passed, order that a public meeting be held. The meeting shall be held in a reasonably convenient location for all interested parties. The applicant shall cooperate with the director in making all necessary arrangements for the public meeting. Within thirty days after the close of the public meeting, the director shall recommend to the commission approval or denial of the permit. If the public meeting does not resolve the concerns expressed by the public, any person whose health, safety or livelihood will be unduly impaired by the issuance of such permit may make a written request to the land reclamation commission for a formal public hearing. The land reclamation commission may grant a public hearing to formally resolve concerns of the public. Any public hearing before the commission shall address one or more of the factors set forth in this section.**]** **The director's decision shall be deemed to be the decision of the director of the department of natural resources and shall be subject to appeal to the administrative hearing commission as provided by sections 640.013 and 621.250.**

[4. In any public hearing, if**]** **3. For purposes of an appeal,** the **administrative hearing** commission **[**finds**]** **may consider**, based on competent and substantial scientific evidence on the record, **[**that**]** **whether** an interested party's health, safety or livelihood will be unduly impaired by the issuance of the permit**[**, the commission may deny such permit**]**. **[**If**]** The **administrative hearing** commission **[**finds**]** **may also consider**, based on competent and substantial scientific evidence on the record, **[**that**]** **whether** the operator has demonstrated, during the five-year period immediately preceding the date of the permit application, a pattern

of noncompliance at other locations in Missouri that suggests a reasonable likelihood of future acts of noncompliance**[**, the commission may deny such permit**]**. In determining whether a reasonable likelihood of noncompliance will exist in the future, the **administrative hearing** commission may look to past acts of noncompliance in Missouri, but only to the extent they suggest a reasonable likelihood of future acts of noncompliance. Such past acts of noncompliance in Missouri, in and of themselves, are an insufficient basis to suggest a reasonable likelihood of future acts of noncompliance. In addition, such past acts shall not be used as a basis to suggest a reasonable likelihood of future acts of noncompliance unless the noncompliance has caused or has the potential to cause, a risk to human health or to the environment, or has caused or has potential to cause pollution, or was knowingly committed, or is defined by the United States Environmental Protection Agency as other than minor. If a hearing petitioner or the **administrative hearing** commission demonstrates either present acts of noncompliance or a reasonable likelihood that the permit seeker or the operations of associated persons or corporations in Missouri will be in noncompliance in the future, such a showing will satisfy the noncompliance requirement in this subsection. In addition, such basis must be developed by multiple noncompliances of any environmental law administered by the Missouri department of natural resources at any single facility in Missouri that resulted in harm to the environment or impaired the health, safety or livelihood of persons outside the facility. For any permit seeker that has not been in business in Missouri for the past five years, the **administrative hearing** commission may review the record of noncompliance in any state where the applicant has conducted business during the past five years. **[**Any decision of the commission made pursuant to a hearing held pursuant to this section is subject to judicial review as provided in chapter 536. No judicial review shall be available, however, until and unless all administrative remedies are exhausted.**] Once the administrative hearing commission has reviewed the appeal, the administrative hearing commission shall make a recommendation to the commission on permit issuance or denial.**

4. The commission shall issue its own decision, based on the appeal, for permit issuance or denial. If the commission changes a finding of fact or conclusion of law made by the administrative hearing commission, or modifies or vacates the decision recommended by the administrative hearing commission, it shall issue its own decision, which shall include findings of fact and conclusions of law. The commission shall mail copies of its final decision to the parties to the appeal or their counsel of record. The commission's decision shall be subject to judicial review pursuant to chapter 536, except that the court of appeals district with territorial jurisdiction coextensive with the county where the mine is to be located shall have original jurisdiction. No judicial review shall be available until and unless all administrative remedies are exhausted.

Approved June 20, 2014

HB 1206 [HB 1206]

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

Removes the expiration date on the authority of certain public higher education institutions to transfer real property, except in fee simple, without General Assembly authorization

AN ACT to repeal section 37.005, RSMo, and to enact in lieu thereof one new section relating to the transfer of property by the governing bodies of certain public institutions of higher education, with an emergency clause.

SECTION
A. Enacting clause.
37.005. Powers and duties, generally.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Section 37.005, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 37.005, to read as follows:

37.005. POWERS AND DUTIES, GENERALLY. — 1. Except as provided herein, the office of administration shall be continued as set forth in house bill 384, seventy-sixth general assembly and shall be considered as a department within the meaning used in the Omnibus State Reorganization Act of 1974. The commissioner of administration shall appoint directors of all major divisions within the office of administration.

2. The commissioner of administration shall be a member of the governmental emergency fund committee as ex officio comptroller and the director of the department of revenue shall be a member in place of the chief of the planning and construction division.

3. The office of administration is designated the "Missouri State Agency for Surplus Property" as required by Public Law 152, eighty-first Congress as amended, and related laws for disposal of surplus federal property. All the powers, duties and functions vested by sections 37.075 and 37.080, and others, are transferred by type I transfer to the office of administration as well as all property and personnel related to the duties. The commissioner shall integrate the program of disposal of federal surplus property with the processes of disposal of state surplus property to provide economical and improved service to state and local agencies of government. The governor shall fix the amount of bond required by section 37.080. All employees transferred shall be covered by the provisions of chapter 36 and the Omnibus State Reorganization Act of 1974.

4. The commissioner of administration shall replace the director of revenue as a member of the board of fund commissioners and assume all duties and responsibilities assigned to the director of revenue by sections 33.300 to 33.540 relating to duties as a member of the board and matters relating to bonds and bond coupons.

5. All the powers, duties and functions of the administrative services section, section 33.580 and others, are transferred by a type I transfer to the office of administration and the administrative services section is abolished.

6. The commissioner of administration shall, in addition to his or her other duties, cause to be prepared a comprehensive plan of the state's field operations, buildings owned or rented and the communications systems of state agencies. Such a plan shall place priority on improved availability of services throughout the state, consolidation of space occupancy and economy in operations.

7. The commissioner of administration shall from time to time examine the space needs of the agencies of state government and space available and shall, with the approval of the board of public buildings, assign and reassign space in property owned, leased or otherwise controlled by the state. Any other law to the contrary notwithstanding, upon a determination by the commissioner that all or part of any property is in excess of the needs of any state agency, the commissioner may lease such property to a private or government entity. Any revenue received from the lease of such property shall be deposited into the fund or funds from which moneys for rent, operations or purchase have been appropriated. The commissioner shall establish by rule the procedures for leasing excess property.

8. The commissioner of administration is hereby authorized to coordinate and control the acquisition and use of electronic data processing (EDP) and automatic data processing (ADP) in the executive branch of state government. For this purpose, the office of administration will have authority to:

(1) Develop and implement a long-range computer facilities plan for the use of EDP and ADP in Missouri state government. Such plan may cover, but is not limited to, operational standards, standards for the establishment, function and management of service centers, coordination of the data processing education, and planning standards for application development and implementation;

(2) Approve all additions and deletions of EDP and ADP hardware, software, and support services, and service centers;

(3) Establish standards for the development of annual data processing application plans for each of the service centers. These standards shall include review of post-implementation audits. These annual plans shall be on file in the office of administration and shall be the basis for equipment approval requests;

(4) Review of all state EDP and ADP applications to assure conformance with the state information systems plan, and the information systems plans of state agencies and service centers;

(5) Establish procurement procedures for EDP and ADP hardware, software, and support service;

(6) Establish a charging system to be used by all service centers when performing work for any agency;

(7) Establish procedures for the receipt of service center charges and payments for operation of the service centers. The commissioner shall maintain a complete inventory of all state-owned or -leased EDP and ADP equipment, and annually submit a report to the general assembly which shall include starting and ending EDP and ADP costs for the fiscal year previously ended, and the reasons for major increases or variances between starting and ending costs. The commissioner shall also adopt, after public hearing, rules and regulations designed to protect the rights of privacy of the citizens of this state and the confidentiality of information contained in computer tapes or other storage devices to the maximum extent possible consistent with the efficient operation of the office of administration and contracting state agencies.

9. Except as provided in subsection 12 of this section, the fee title to all real property now owned or hereafter acquired by the state of Missouri, or any department, division, commission, board or agency of state government, other than real property owned or possessed by the state highways and transportation commission, conservation commission, state department of natural resources, and the University of Missouri, shall on May 2, 1974, vest in the governor. The governor may not convey or otherwise transfer the title to such real property, unless such conveyance or transfer is first authorized by an act of the general assembly. The provisions of this subsection requiring authorization of a conveyance or transfer by an act of the general assembly shall not, however, apply to the granting or conveyance of an easement to any rural electric cooperative as defined in chapter 394, municipal corporation, quasi-governmental corporation owning or operating a public utility, or a public utility, except railroads, as defined in chapter 386. The governor, with the approval of the board of public buildings, may, upon the request of any state department, agency, board or commission not otherwise being empowered to make its own transfer or conveyance of any land belonging to the state of Missouri which is under the control and custody of such department, agency, board or commission, grant or convey without further legislative action, for such consideration as may be agreed upon, easements across, over, upon or under any such state land to any rural electric cooperative, as governed in chapter 394, municipal corporation, or quasi-governmental corporation owning or operating a public utility, or a public utility, except railroad, as defined in chapter 386. The easement shall be for the purpose of promoting the general health, welfare and safety of the public and shall include the right of ingress or egress for the purpose of constructing, maintaining or removing any pipeline, power line, sewer or other similar public utility installation or any equipment or appurtenances necessary to the operation thereof, except that railroad as defined in chapter 386 shall not be included in the provisions of this subsection unless such conveyance or transfer is first authorized by an act of the general assembly. The easement shall be for such consideration

as may be agreed upon by the parties and approved by the board of public buildings. The attorney general shall approve the form of the instrument of conveyance. The commissioner of administration shall prepare management plans for such properties in the manner set out in subsection 7 of this section.

10. The commissioner of administration shall administer a revolving "Administrative Trust Fund" which shall be established by the state treasurer which shall be funded annually by appropriation and which shall contain moneys transferred or paid to the office of administration in return for goods and services provided by the office of administration to any governmental entity or to the public. The state treasurer shall be the custodian of the fund, and shall approve disbursements from the fund for the purchase of goods or services at the request of the commissioner of administration or the commissioner's designee. The provisions of section 33.080 notwithstanding, moneys in the fund shall not lapse, unless and then only to the extent to which the unencumbered balance at the close of any fiscal year exceeds one-eighth of the total amount appropriated, paid, or transferred to the fund during such fiscal year, and upon approval of the oversight division of the joint committee on legislative research. The commissioner shall prepare an annual report of all receipts and expenditures from the fund.

11. All the powers, duties and functions of the department of community affairs relating to statewide planning are transferred by type I transfer to the office of administration.

12. The titles which are vested in the governor by or pursuant to this section to real property assigned to any of the educational institutions referred to in section 174.020 on June 15, 1983, are hereby transferred to and vested in the board of regents of the respective educational institutions, and the titles to real property and other interests therein hereafter acquired by or for the use of any such educational institution, notwithstanding provisions of this section, shall vest in the board of regents of the educational institution. The board of regents may not convey or otherwise transfer the title to or other interest in such real property unless the conveyance or transfer is first authorized by an act of the general assembly, except as provided in section 174.042, and except that the board of regents may grant easements over, in and under such real property without further legislative action.

13. Notwithstanding any provision of subsection 12 of this section to the contrary, the board of governors of Missouri Western State University, University of Central Missouri, Missouri State University, or Missouri Southern State University, or the board of regents of Southeast Missouri State University, Northwest Missouri State University, or Harris-Stowe State University, or the board of curators of Lincoln University may convey or otherwise transfer for fair market value, except in fee simple, the title to or other interest in such real property without authorization by an act of the general assembly. **[**The provisions of this subsection shall expire August 28, 2017.**]**

14. All county sports complex authorities, and any sports complex authority located in a city not within a county, in existence on August 13, 1986, and organized under the provisions of sections 64.920 to 64.950, are assigned to the office of administration, but such authorities shall not be subject to the provisions of subdivision (4) of subsection 6 of section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo, as amended.

15. All powers, duties, and functions vested in the administrative hearing commission, sections 621.015 to 621.205 and others, are transferred to the office of administration by a type III transfer.

SECTION B. EMERGENCY CLAUSE. — Because of the importance of allowing higher education institutions to provide responses to potential property lessors in a timely manner, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved July 9, 2014

HB 1217 [SCS HCS HB 1217]

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

Specifies certain unlawful transfers or assignments of pension benefits

AN ACT to amend chapters 105 and 434, RSMo, by adding thereto six new sections relating to public employee retirement plan benefits.

SECTION
A. Enacting clause.
105.669. Felony conviction, ineligible for benefits, when — procedure, court to notify — list of offenses.
434.300. Definitions.
434.301. Transfer or assignment of rights prohibited — moneys and rights not subject to legal process — pension assignee prohibited from evading prohibitions.
434.302. Contract or agreement void, when — moneys paid to be returned for violation — action to enforce restitution, time limitation.
434.303. Attorney general may bring action, when — recovery procedures.
434.304. Actions under chapter 409 not prohibited.

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

SECTION A. ENACTING CLAUSE. — Chapters 105 and 434, RSMo, are amended by adding thereto six new sections, to be known as sections 105.669, 434.300, 434.301, 434.302, 434.303, and 434.304 to read as follows:

105.669. FELONY CONVICTION, INELIGIBLE FOR BENEFITS, WHEN — PROCEDURE, COURT TO NOTIFY — LIST OF OFFENSES. — 1. Any participant of a plan who is found guilty of a felony offense listed in subsection 3 of this section, which is committed in direct connection with or directly related to the participant's duties as an employee on or after the effective date of this section, shall not be eligible to receive any retirement benefits from the respective plan based on service rendered on or after the effective date of this section, except a participant may still request from the respective retirement system a refund of the participant's plan contributions, including interest credited to the participant's account.

2. Upon a finding of guilt, the court shall forward a notice of the court's finding to the appropriate retirement system in which the offender was a participant. The court shall also make a determination on the value of the money, property, or services involved in committing the offense. The plans shall take all actions necessary to implement the provisions of this section.

3. The finding of guilt for any of the following offenses or a substantially similar offense provided under federal law shall result in the ineligibility of retirement benefits as provided in subsection 1 of this section:

(1) The offense of felony stealing under section 570.030 when such offense involved money, property, or services valued at five thousand dollars or more as determined by the court;

(2) The offense of felony receiving stolen property under section 570.080 when such offense involved money, property, or services valued at five thousand dollars or more as determined by the court;

(3) The offense of forgery under section 570.090;

(4) The offense of felony counterfeiting under section 570.103;

(5) The offense of bribery of a public servant under section 576.010; or

(6) The offense of acceding to corruption under section 576.020.

434.300. DEFINITIONS. — For purposes of sections 434.300 to 434.303, the following terms shall mean:

(1) "Benefit recipient", the person who is the plan participant or authorized beneficiary under the plan entitled to receive a plan benefit;

(2) "Pension assignee", an individual or entity that has been assigned a plan benefit or portions of a plan benefit by the benefit recipient or that otherwise claims an interest in, or control over, a plan benefit or account to which a plan benefit has been deposited. The term "pension assignee" shall not include an individual who is a designated payee under a division of benefits order;

(3) "Plan", any retirement system established by the state of Missouri, any political subdivision, or instrumentality of the state for the purpose of providing plan benefits for elected or appointed public officials or employees of the state of Missouri, any political subdivision, or instrumentality of the state;

(4) "Plan benefit", the benefit amount payable from a plan, and includes any annuity, supplemental payment, or death benefit under the plan together with any supplemental payments from public funds to the benefit recipient.

434.301. TRANSFER OR ASSIGNMENT OF RIGHTS PROHIBITED — MONEYS AND RIGHTS NOT SUBJECT TO LEGAL PROCESS — PENSION ASSIGNEE PROHIBITED FROM EVADING PROHIBITIONS. — 1. The right of any person to a plan benefit shall not be transferable or assignable, at law or in equity, and none of the moneys paid or payable or rights existing under a plan shall be subject to execution, levy, attachment, garnishment, or other legal process. This section shall not prohibit the division or assignability of a plan benefit that is expressly authorized by law that establishes the plan or that is specifically applicable to the plan, including division of benefits orders and any legal process in furtherance of the collection of either a judgment or administrative order for child support or spousal support.

2. A pension assignee shall not use any device, scheme, transfer, or other artifice to evade the applicability and prohibition of this section, including the deposit of such plan benefits into a joint account with a pension assignee or the authorization to a pension assignee under a power of attorney or other instrument or document to access an account or otherwise obtain funds from an account to which plan benefits have been deposited.

434.302. CONTRACT OR AGREEMENT VOID, WHEN — MONEYS PAID TO BE RETURNED FOR VIOLATION — ACTION TO ENFORCE RESTITUTION, TIME LIMITATION. — 1. Any contract or agreement made in violation of section 434.301 is void. All sums paid to or collected by a pension assignee in violation of section 434.301 shall be returned by the pension assignee to the benefit recipient or his or her heirs or beneficiaries as restitution.

2. Any benefit recipient, his or her guardian or conservator, or heir or beneficiary may bring an action to enforce the restitution authorized under this section.

3. Notwithstanding any other provision of law to the contrary, any actions brought under this section must be commenced within five years after any individual or entity engages in any act or practice in violation of 434.301.

434.303. ATTORNEY GENERAL MAY BRING ACTION, WHEN — RECOVERY PROCEDURES. — 1. Whenever it appears that any individual or entity is engaged or is about to engage in any act or practice which is in violation of section 434.301, the attorney general may bring an action in the circuit court having venue to enjoin such act or practice, and upon a proper showing, a temporary restraining order or a preliminary or permanent injunction shall be granted without bond.

2. The attorney general may seek the recovery authorized under section 434.302 on behalf of the benefit recipient or his or her heirs or beneficiaries and the state, and may exercise the investigative and enforcement powers authorized under chapter 407 to the

attorney general and the attorney general may have such recovery of costs as authorized under chapter 407.

434.304. ACTIONS UNDER CHAPTER 409 NOT PROHIBITED. — Nothing in sections 434.301 to 434.303 shall prohibit any action permitted under chapter 409.

Approved July 8, 2014

HB 1218 [HCS HB 1218]

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

Specifies the order of preference of liens and encumbrances on a unit owners of a leasehold condominium

AN ACT to repeal section 448.3-116, RSMo, and to enact in lieu thereof one new section relating to liens for assessments on condominiums.

SECTION
A. Enacting clause.
448.3-116. Lien for assessments.

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

SECTION A. ENACTING CLAUSE. — Section 448.3-116, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 448.3-116, to read as follows:

448.3-116. LIEN FOR ASSESSMENTS. — 1. The association has a lien on a unit for any assessment levied against that unit or fines imposed against its unit owner from the time the assessment or fine becomes due. The association's lien may be foreclosed in like manner as a mortgage on real estate or a power of sale pursuant to chapter 443. Unless the declaration otherwise provides, fees, charges, late charges, fines, and interest charged pursuant to subdivisions (10), (11), and (12) of subsection 1 of section 448.3-102 are enforceable as assessments pursuant to this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

2. A lien pursuant to this section is prior to all other liens and encumbrances on a unit except:

(1) Liens and encumbrances recorded before the recordation of the declaration;

(2) **[**A**]** **Any mortgage or deed of trust securing a purchase money loan for the unit recorded prior to August 28, 2014;**

(3) Any mortgage **[**and**] or** deed of trust **[**for the purchase of**] on** a unit recorded before the date on which the assessment sought to be enforced became **[**delinquent**] due except that a lien under this section has limited priority over the mortgage or deed of trust for common expense assessments in an amount not to exceed six months of the delinquent common expense assessments based on the periodic budget adopted by the association under subsection 1 of section 448.3-115 which would have become due in the absence of acceleration during the six months immediately preceding the date of filing of a petition to enforce the association's lien or the date of sale by the holder of a mortgage or deed of trust**;

[(3)**] (4)** Liens for real estate taxes and other governmental assessments or charges against the unit;

[(4) Except for delinquent assessments or fines, up to a maximum of six months' assessments or fines, which are due prior to any subsequent refinancing of a unit or for any subsequent second mortgage interest.**]**

(5) If the association forecloses its lien under this section in a non-judicial manner under chapter 443, the association shall not be entitled to the limited lien priority for common expense assessments provided under subdivision (3) of subsection 2 of this section;

(6) This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association. The lien pursuant to this section is not subject to the provisions of section 513.475.

3. Unless the declaration provides otherwise, if two or more associations have liens for assessments created at any time on the same real estate, those liens have equal priority.

4. Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment pursuant to this section is required.

5. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three years after the full amount of the assessments becomes due.

6. This section shall not prohibit actions to recover sums for which subsection 1 of this section creates a lien, or prohibit an association from taking a deed in lieu of foreclosure.

7. **The association shall be entitled to recover any costs and reasonable attorneys' fees incurred in connection with the collection of delinquent assessments.** A judgment or decree in any action brought pursuant to this section shall include costs and reasonable attorney's fees for the prevailing party. **Attorneys' fees and costs shall not be included in the association's lien under subdivision (3) of subsection 2 of this section.**

8. The association shall furnish to a unit owner **or any holder of a mortgage or deed of trust**, upon written request, a recordable statement setting forth the amount of unpaid assessments against the unit owner's unit. The statement shall be furnished within ten business days after receipt of the request and is binding on the association, the executive board, and every unit owner **unless it is known by the recipient to be false.**

9. If a unit is occupied by a tenant and the record owner is delinquent in payment of assessments in excess of sixty days, the association may demand payment of subsequent rental payments until the record owner is no longer delinquent, the association releases the tenant, or the tenant is no longer in possession of the unit. The demand to the tenant shall be in writing, with a copy to the record owner, sent via first-class United States mail, postage pre-paid, or hand delivery. A tenant is immune from any claim by the record owner related to the rent timely paid to the association after the association has made written demand. If the tenant fails to make payment to the association, the association may issue notice and evict under chapter 534. The tenant does not, by virtue of payment, have any rights of a record owner to vote in an election or examine the books and records of the association.

Approved June 10, 2014

HB 1225 [SCS HCS HB 1225]

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

Modifies provisions relating to self-service storage facilities

AN ACT to repeal sections 415.400, 415.405, 415.410, 415.415, 415.417, 415.420, and 415.425, RSMo, and to enact in lieu thereof seven new sections relating to self-service storage facilities.

SECTION
A. Enacting clause.
415.400. Title of act.
415.405. Definitions.
415.410. Leased space not to be used as residence — operator may enter space, when — occupant to furnish operator certain information — limitation on value of property in agreement, maximum liability amount.
415.415. Lien on stored property, when, notice regarding, priority of, how enforced and satisfied — sale of property, procedure, duties of operator, distribution of proceeds — redemption by occupant, when.
415.417. Late fee assessed, when, amount — recovery of expenses, when.
415.420. Purchaser in good faith, not subject to certain liens — operator, limited liability, right to deny occupant access, when — notices, how and where sent.
415.425. Care and control of stored property vested in occupant, exception.

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

SECTION A. ENACTING CLAUSE. — Sections 415.400, 415.405, 415.410, 415.415, 415.417, 415.420, and 415.425, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 415.400, 415.405, 415.410, 415.415, 415.417, 415.420, and 415.425, to read as follows:

415.400. TITLE OF ACT. — Sections 415.400 to **[**415.430**]** **415.425** shall be known and may be cited as the "Self-Service Storage Facilities Act".

415.405. DEFINITIONS. — As used in sections 415.400 to **[**415.430**]** **415.425**, the following terms shall mean:

(1) "Default", the failure to perform on time any obligation or duty set forth in a rental agreement;

(2) **"Electronic mail", an electronic message or an executable program or computer file that contains an image of a message that is transmitted between two or more computers or electronic terminals and includes electronic messages that are transmitted within or between computer networks;**

(3) "Last known address", that **postal** address **or electronic mail address** provided by the occupant in the **latest** rental agreement or the **postal or electronic mail** address provided by the occupant in a subsequent written notice of a change of address**, one of which may be designated in writing by the occupant as the preferred method of contact which shall be used by the operator**;

[(3)**]** **(4)** "Leased space", the individual storage space at the self-service facility which is rented to an occupant pursuant to a rental agreement;

[(4)**]** **(5)** "No commercial value", **includes but not limited to** any property offered for sale in a commercially reasonable manner that receives no bid or offer;

[(5)**]** **(6)** "Occupant", a person, lessee, sublessee, successor or assignee entitled to the use of a leased space at a self-service storage facility under a rental agreement;

[(6)**]** **(7)** "Operator", the owner, operator, lessor or sublessor of a self-service storage facility, or an agent or any other person authorized to manage the facility; except that, the term "operator" does not include a warehouseman, unless the operator issues a warehouse receipt, bill of lading, or other document of title for the personal property stored;

[(7)**]** **(8)** "Personal property", movable property which is not affixed to land, including, but not limited to, goods, wares, merchandise, motor vehicles, watercraft, household items, and furnishings;

[(8)**]** **(9)** "Private sale", **[**an unadvertised**]** **a** sale negotiated and concluded directly between the buyer and seller;

[(9)**]** **(10)** "Public sale", a sale made after public notice **and includes but is not limited to a sale at the self-service storage facility or a sale conducted online at a publically accessible website**;

[(10)**]** **(11)** "Rental agreement", any written contract or agreement that establishes or modifies the terms, conditions or rules concerning the use and occupancy of a self-service storage facility, which is signed by the occupant and the operator;

[(11)**]** **(12)** "Self-service storage facility", any real property used for renting or leasing individual storage spaces in which the occupants themselves customarily store and remove their own personal property on a self-service basis**;**

(13) "Verified mail", any method of mailing that is offered by the United States Postal Service or private delivery service that provides evidence of mailing.

415.410. LEASED SPACE NOT TO BE USED AS RESIDENCE — OPERATOR MAY ENTER SPACE, WHEN — OCCUPANT TO FURNISH OPERATOR CERTAIN INFORMATION — LIMITATION ON VALUE OF PROPERTY IN AGREEMENT, MAXIMUM LIABILITY AMOUNT. — 1. An operator may not knowingly permit a leased space at a self-service storage facility to be used for residential purposes. An occupant may not use a leased space for residential purposes.

2. An operator may enter **the** leased space at all times which are reasonably necessary to insure the protection and preservation of the self-service storage facility or any personal property stored therein.

3. Prior to placing any personal property into his or her leased space, each occupant shall deliver a written statement to the operator **or indicate in the rental agreement** of such leased space containing the name and address of each person having a valid lien against such personal property **and the name and address of any third party owner of personal property stored or to be stored in the leased space along with a description of such personal property**.

4. The lessee shall be informed in writing that the lessor either does or does not have casualty insurance on the lessee's property.

5. If the rental agreement contains a limit on the value of property stored in occupant's space, such limit shall be deemed to be the maximum value of the stored property and the maximum liability of the owner for any claim for loss of or damage to stored property.

415.415. LIEN ON STORED PROPERTY, WHEN, NOTICE REGARDING, PRIORITY OF, HOW ENFORCED AND SATISFIED — SALE OF PROPERTY, PROCEDURE, DUTIES OF OPERATOR, DISTRIBUTION OF PROCEEDS — REDEMPTION BY OCCUPANT, WHEN. — 1. The operator of a self-service storage facility has a lien on all personal property stored within each leased space for rent, labor, or other charges, and for expenses reasonably incurred in sale of such personal property, as provided in sections 415.400 to **[**415.430**]** **415.425**. The lien established by this subsection shall have priority over all other liens except those liens that have been perfected and recorded on personal property. The rental agreement shall contain a statement, in bold type, advising the occupant of the existence of such lien and that property stored in the leased space may be sold to satisfy such lien if the occupant is in default, and that any proceeds from the sale of the property which remain after satisfaction of the lien will be paid to the state treasurer if unclaimed by the occupant within one year after the sale of the property.

2. If the occupant is in default for a period of more than **[**thirty**]** **forty-five** days, the operator may enforce the lien granted in subsection 1 of this section and sell the property stored in the leased space for cash. Sale of the property stored on the premises may be done at a public or private sale, may be done as a unit or in parcels, or may be by way of one or more contracts, and may be at any time or place and on any terms as long as the sale is done in a commercially reasonable manner in accordance with the provisions of section 400.9-627. The operator may otherwise dispose of any property which has no commercial value.

3. The proceeds of any sale made under this subsection shall be applied to satisfy the lien, with any surplus being held for delivery on demand to the occupant or any other lienholders which the operator knows of or which are contained in the statement filed by the occupant pursuant to subsection 3 of section 415.410 for a period of one year after receipt of proceeds of

the sale and satisfaction of the lien. No proceeds shall be paid to an occupant until such occupant files a sworn affidavit with the operator stating that there are no other valid liens outstanding against the property sold and that he or she, the occupant, shall indemnify the operator for any damages incurred or moneys paid by the operator due to claims arising from other lienholders of the property sold. After the one-year period set in this subsection, any proceeds remaining after satisfaction of the lien shall be considered abandoned property to be reported and paid to the state treasurer in accordance with laws pertaining to the disposition of unclaimed property.

4. Before conducting a sale under subsection 2 of this section, the operator shall:

(1) At least forty-five days before any disposition of property under this section, which shall run concurrently with subsection 2 of this section, notify the occupant and each lienholder which is contained in any statement filed by the occupant pursuant to subsection 3 of section 415.410 of the default by first-class mail **or electronic mail** at the occupant's or lienholder's last known address**, and shall notify any third party owner identified by the occupant pursuant to subsection 3 of section 415.410**;

(2) No **[**later**]** **sooner** than ten days after mailing the notice required in subdivision (1) of this subsection, mail a second notice of default, by **[**registered or certified**]** **verified** mail **or electronic mail**, to the occupant at the occupant's or lienholder's last known address, which notice shall include:

(a) A statement that the contents of the occupant's leased space are subject to the operator's lien;

(b) A statement of the operator's claim, indicating the charges due on the date of the notice, the amount of any additional charges which shall become due before the date of release for sale and the date those additional charges shall become due;

(c) A demand for payment of the charges due within a specified time, not less than ten days after the date on which the second notice was mailed;

(d) A statement that unless the claim is paid within the time stated, the contents of the occupant's space will be sold after a specified time; and

(e) The name, street address and telephone number of the operator, or a designated agent whom the occupant may contact, to respond to the notice;

(3) At least seven days before the sale, advertise the time, place and terms of the sale in a newspaper of general circulation in the jurisdiction where the sale is to be held. Such advertisement shall be in the classified section of the newspaper and shall state that the items will be released for sale.

5. If the property is a vehicle, watercraft, or trailer and rent and other charges remain unpaid for sixty days, the owner may treat the vehicle, watercraft, or trailer as an abandoned vehicle and have the vehicle, watercraft, or trailer towed from the self-service storage facility. When the vehicle, watercraft, or trailer is towed from the self-service storage facility, the owner shall not be liable for the vehicle, watercraft, or trailer for any damages to the motor vehicle, watercraft, or trailer once the tower takes possession of the property.

[5.**]** **6.** At any time before a sale under this section, the occupant may pay the amount necessary to satisfy the lien and redeem the occupant's personal property.

415.417. LATE FEE ASSESSED, WHEN, AMOUNT — RECOVERY OF EXPENSES, WHEN. — 1. For the purposes of this section, "late fee" means a fee or charge assessed by an operator for an occupant's failure to pay rent when due. A late fee is not interest on a debt, nor is a late fee a reasonable expense which the operator may incur in the course of collecting unpaid rent in enforcing his or her lien rights pursuant to sections 415.400 to **[**415.430**]** **415.425**, or enforcing any other remedy provided by statute or contract.

2. Any late fee charged by the operator shall be stated in the rental agreement. No late fee shall be collected unless it is written in the rental agreement or an addendum to such agreement.

3. An operator may impose a reasonable late fee for each month an occupant does not pay rent when due.

4. A late fee of twenty dollars or twenty percent of the monthly rental amount, whichever is greater, for each late rental payment shall be deemed reasonable, and shall not constitute a penalty.

5. An operator may set a late fee other than that permitted in subsection 4 of this section if such fee is reasonable. The operator shall have the burden of proof that a higher late fee is reasonable.

6. The operator may recover all reasonable rent collection and lien enforcement expenses from the occupant in addition to any late fees incurred.

415.420. PURCHASER IN GOOD FAITH, NOT SUBJECT TO CERTAIN LIENS — OPERATOR, LIMITED LIABILITY, RIGHT TO DENY OCCUPANT ACCESS, WHEN — NOTICES, HOW AND WHERE SENT. — 1. A purchaser in good faith of any personal property sold under sections 415.400 to **[**415.430**]** **415.425** takes the property free and clear of any rights of any persons against whom the lien was valid and other lienholders.

2. If the operator complies with the provisions of sections 415.400 to **[**415.430**]** **415.425**, the operator's liability to the occupant shall be limited to the net proceeds received from the sale of the personal property, and to other lienholders shall be limited to the net proceeds received from the sale of any personal property covered by the other lien.

3. If an occupant is in default, the operator may deny the occupant access to the leased space.

4. Unless otherwise specifically provided in sections 415.400 to **[**415.430**]** **415.425**, all notices required by sections 415.400 to **[**415.430**]** **415.425** shall be sent by **[**registered or certified mail**]** **verified mail or electronic mail to the last known address as defined in section 415.400**. Notices sent to the operator shall be sent to the self-service storage facility where the occupant's property is stored. Notices to the occupant shall be sent to the occupant at the occupant's last known address. Notices shall be deemed delivered when deposited with the United States postal service, properly addressed as provided in subsection 4 of section 415.415, with postage prepaid **or sent via electronic mail to the last known address**.

415.425. CARE AND CONTROL OF STORED PROPERTY VESTED IN OCCUPANT, EXCEPTION. — Except as provided in subsection 3 of section 415.420, unless the rental agreement specifically provides otherwise and until a lien sale under sections 415.400 to **[**415.430**]** **415.425**, the exclusive care, custody and control of all personal property stored in the leased self-service storage space remains vested in the occupant.

Approved July 10, 2014

HB 1231 [CCS SS SCS HCS HB 1231]

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

Changes the laws regarding judicial procedures

AN ACT to repeal sections 56.807, 105.711, 302.065, 334.950, 408.040, 452.556, 454.500, 455.007, 456.950, 476.445, 477.081, 477.082, 477.152, 477.160, 477.170, 477.180, 477.181, 477.190, 477.191, 478.320, 478.437, 478.464, 478.513, 478.600, 478.610, 483.140, 488.014, 488.026, 488.305, 516.140, 516.350, 525.040, 525.070, 525.080, 525.230, 525.310, 575.153, 578.501, 578.502, 578.503, and 650.120, RSMo, and to enact

in lieu thereof forty-two new sections relating to the administration of justice, with penalty provisions, an effective date for certain sections, and an emergency clause for certain sections.

SECTION

A. Enacting clause.

21.880. Joint committee established, members, meetings, duties, report — permanent subcommittee on the Missouri criminal code — staff assistance — compensation.

56.807. Local payments, amounts — prosecuting attorneys and circuit attorneys' retirement system fund created — donations may be accepted.

57.095. Service of process, immunity from liability for sheriffs and law enforcement officers, when.

105.711. Legal expense fund created — officers, employees, agencies, certain health care providers covered, procedure — rules regarding contract procedures and documentation of care — certain claims, limitations — funds not transferable to general revenue — rules.

302.065. Retention of copies of documents prohibited, when — destruction of certain source documents required — inapplicability — civil action authorized, when.

302.067. Lawful presence or citizenship, proof of to be presented once — exceptions.

334.950. Collaboration between providers and medical resource centers — definitions — recommendations — rulemaking authority, SAFE CARE providers.

408.040. Interest on judgments, how regulated — prejudgment interest allowed when, procedure.

452.556. Handbook, contents, availability.

454.500. Modification of an administrative order, procedure, effect — relief from orders, when.

455.007. Mootness doctrine, public interest exception to apply upon expiration of the order.

456.950. Definition — property and interests in property, how held — death of settlor, effect of — marital property rights, effect on.

456.4-420. No-contest clause, claims for relief.

474.395. No-contest clauses, application of, petition may be filed — definition.

477.160. Judges, eastern district court of appeals, number.

477.170. Judges, western district court of appeals, number.

477.180. Judges, southern district court of appeals, number.

478.320. Associate circuit judges, authorized number — population determination — election — restrictions on practice of law or paid public appointment — residency requirement.

478.437. Circuit No. 21, number of judges.

478.464. Associate circuit divisions numbered — divisions to sit, where — (Jackson County).

478.513. Circuit No. 31, number of judges, divisions — when judges elected.

478.600. Circuit No. 11, number of judges, divisions — when judges elected — drug commissioner to become associate circuit judge position.

478.610. Circuit No. 13, number of judges, divisions — when judges elected — additional associate circuit judge for Boone County, when.

478.740. Circuit No. 38, number of judges — number of divisions-election dates.

483.140. Judge to superintend keeping of records.

488.014. Overpayment of court costs, no duty to refund, when.

488.026. Surcharge for all criminal cases, amount — county ordinance defined — collection and deposit of funds.

488.305. Court costs — circuit clerk, duties — surcharge for garnishment cases (statutory liens).

488.2206. Circuit No. 37, additional surcharge for a county or municipal judicial facility.

488.2245. City of Florissant, additional surcharge for a municipal courthouse.

516.140. What actions within two years.

516.350. Judgments presumed to be paid, when — presumption, how rebutted — inclusion in the automated child support system — judgment for unpaid rent, revived by publication.

525.040. Effect of notice of garnishment — priority based on date of service.

525.070. Garnishee may discharge himself, how.

525.080. Garnishee to deliver property, or pay debts, or may give bond therefor.

525.230. Garnishee is a financial institution, one-time deduction permitted, when — procedure.

525.310. Compensation of state and municipal employees subject to garnishment, procedure.

537.602. Supervision of community service work, immunity from liability, when — definitions — community service work not deemed employment and worker not an employee.

574.160. Unlawful funeral protest, offense of — definitions — violation, penalty.

575.153. Disarming a peace officer or correctional officer — penalty.

632.520. Offender committing violence against an employee — definitions — penalty — damage of property, violation, penalty.

650.120. Grants to fund investigations of internet sex crimes against children — fund created — panel, membership, terms — local matching amounts — priorities — training standards — information sharing — panel recommendation — power of arrest — sunset provision.

476.445. Disability retirement of supreme court and court of appeals commissioners — hearing — compensation.

477.081. New commissioners prohibited — present commissioners reappointed, when.

477.082. Commissioners may be assigned as special judges.

477.152. Vacancy in office of commissioner, procedure to be followed.
477.181. Additional judge for southern district of court of appeals.
477.190. Judges, to be additional.
477.191. Additional judges for western district of court of appeals.
578.501. Funeral protests prohibited, when — citation of law — definitions.
578.502. Funeral protests prohibited, when — funeral defined.
578.503. Contingent effective date.
B. Delayed effective date.
C. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 56.807, 105.711, 302.065, 334.950, 408.040, 452.556, 454.500, 455.007, 456.950, 476.445, 477.081, 477.082, 477.152, 477.160, 477.170, 477.180, 477.181, 477.190, 477.191, 478.320, 478.437, 478.464, 478.513, 478.600, 478.610, 483.140, 488.014, 488.026, 488.305, 516.140, 516.350, 525.040, 525.070, 525.080, 525.230, 525.310, 575.153, 578.501, 578.502, 578.503, and 650.120, RSMo, are repealed and forty-two new sections enacted in lieu thereof, to be known as sections 21.880, 56.807, 57.095, 105.711, 302.065, 302.067, 334.950, 408.040, 452.556, 454.500, 455.007, 456.950, 456.4-420, 474.395, 477.160, 477.170, 477.180, 478.320, 478.437, 478.464, 478.513, 478.600, 478.610, 478.740, 483.140, 488.014, 488.026, 488.305, 488.2206, 488.2245, 516.140, 516.350, 525.040, 525.070, 525.080, 525.230, 525.310, 537.602, 574.160, 575.153, 632.520, and 650.120, to read as follows:

21.880. JOINT COMMITTEE ESTABLISHED, MEMBERS, MEETINGS, DUTIES, REPORT — PERMANENT SUBCOMMITTEE ON THE MISSOURI CRIMINAL CODE — STAFF ASSISTANCE — COMPENSATION. — 1. There is hereby established a permanent joint committee of the general assembly, which shall be known as the "Joint Committee on the Justice System" and shall be composed of the following members:

(1) The chairs of the senate and house committees on the judiciary;

(2) The ranking minority members of the senate and house committees on the judiciary;

(3) Two members of the senate appointed by the president pro tempore of the senate, one of whom shall be a member of the senate committee on appropriations;

(4) The chair of the house committee with jurisdiction over matters relating to criminal laws, law enforcement, and public safety;

(5) The chair of the house committee with jurisdiction over matters relating to state correctional institutions;

(6) A member of the senate appointed by the minority floor leader of the senate;

(7) A member of the house of representatives appointed by the minority floor leader of the house of representatives;

(8) Three nonvoting ex officio members who shall be the chief justice of the Missouri supreme court, the state auditor, and the attorney general, or their designees.

2. No more than three members from each house shall be of the same political party.

3. The joint committee shall meet within thirty days after its creation and organize by selecting a chair and vice chair, one of whom shall be the senate judiciary chair and one of whom shall be the house judiciary chair. The positions of chair and vice chair shall alternate every two years thereafter between the senate and house. After its organization, the committee shall meet regularly, at least twice a year, at such time and place as the chair designates, including locations other than Jefferson City. A majority of the members of the committee shall constitute a quorum, but the concurrence of a majority of the members, other than the ex officio members, shall be required for the determination of any matter within the committee's duties.

4. In order to promote the effective administration of justice and public safety, it shall be the duty of the joint committee to:

(1) Review and monitor:

(a) The state's justice system;

(b) The state's criminal laws, law enforcement, and public safety;

(c) The state's correctional institutions and penal and correctional issues; and

(d) All state government efforts related to terrorism, bioterrorism, and homeland security;

(2) Receive reports from the judicial branch, state or local government agencies or departments, and any entities attached to them for administrative purposes;

(3) Conduct an ongoing study and analysis of the state's justice system and related issues;

(4) Determine the need for changes in statutory law, rules, policies, or procedures;

(5) Make any recommendations to the general assembly for legislative action; and

(6) Perform other duties authorized by concurrent resolution of the general assembly.

5. By January 15, 2016, and every year thereafter, it shall be the duty of the joint committee to file with the general assembly a report of its activities, along with any findings or recommendations the committee may have for legislative action.

6. The joint committee shall establish a permanent subcommittee on the Missouri criminal code, which shall conduct and supervise a continuing program of revision designed to maintain the cohesiveness, consistency, and effectiveness of the criminal laws of the state. In connection with this program, the committee may select an advisory committee on the Missouri criminal code, composed of a representative of the Missouri supreme court, a representative of the office of the attorney general, and other individuals known to be interested in the improvement of the state's criminal laws, and may authorize the payment of any actual and necessary expenses incurred by such members while attending meetings with the committee or the subcommittee on the Missouri criminal code. The subcommittee on the Missouri criminal code shall present to the general assembly in each tenth year such criminal code revision bills as it finds appropriate to accomplish its purpose.

7. The joint committee may make reasonable requests for staff assistance from the research and appropriations staffs of the senate and house and the joint committee on legislative research, and may employ such personnel as it deems necessary to carry out the duties imposed by this section, within the limits of any appropriation for such purpose. In the performance of its duties, the committee may request assistance or information from all branches of government and state departments, agencies, boards, commissions, and offices.

8. The members of the committee shall serve without compensation, but any actual and necessary expenses incurred in the performance of the committee's official duties by the joint committee, its members, and any staff assigned to the committee shall be paid from the joint contingent fund.

56.807. LOCAL PAYMENTS, AMOUNTS — PROSECUTING ATTORNEYS AND CIRCUIT ATTORNEYS' RETIREMENT SYSTEM FUND CREATED — DONATIONS MAY BE ACCEPTED. — 1. Beginning August 28, 1989, and continuing monthly thereafter until August 27, 2003, the funds for prosecuting attorneys and circuit attorneys provided for in subsection 2 of this section shall be paid from county or city funds.

2. Beginning August 28, 1989, and continuing monthly thereafter until August 27, 2003, each county treasurer shall pay to the system the following amounts to be drawn from the general revenues of the county:

(1) For counties of the third and fourth classification except as provided in subdivision (3) of this subsection, three hundred seventy-five dollars;

(2) For counties of the second classification, five hundred forty-one dollars and sixty-seven cents;

(3) For counties of the first classification, counties which pursuant to section 56.363 elect to make the position of prosecuting attorney a full-time position after August 28, 2001, or whose county commission has elected a full-time retirement benefit pursuant to subsection 3 of section 56.363, and the city of St. Louis, one thousand two hundred ninety-one dollars and sixty-seven cents.

3. Beginning August 28, 1989, and continuing until August 27, 2003, the county treasurer shall at least monthly transmit the sums specified in subsection 2 of this section to the Missouri office of prosecution services for deposit to the credit of the "Missouri Prosecuting Attorneys and Circuit Attorneys' Retirement System Fund", which is hereby created. All moneys held by the state treasurer on behalf of the system shall be paid to the system within ninety days after August 28, 1993. Moneys in the Missouri prosecuting attorneys and circuit attorneys' retirement system fund shall be used only for the purposes provided in sections 56.800 to 56.840 and for no other purpose.

4. Beginning August 28, 2003, the funds for prosecuting attorneys and circuit attorneys provided for in this section shall be paid from county or city funds and the surcharge established in this section and collected as provided by this section and sections 488.010 to 488.020.

5. **(1)** Beginning August 28, 2003, each county treasurer shall pay to the system the following amounts to be drawn from the general revenues of the county:

[(1)**] (a)** For counties of the third and fourth classification except as provided in **[**subdivision (3)**] paragraph (c)** of this **[**subsection**] subdivision**, one hundred eighty-seven dollars;

[(2)**] (b)** For counties of the second classification, two hundred seventy-one dollars;

[(3)**] (c)** For counties of the first classification, counties which pursuant to section 56.363 elect to make the position of prosecuting attorney a full-time position after August 28, 2001, or whose county commission has elected a full-time retirement benefit pursuant to subsection 3 of section 56.363, and the city of St. Louis, six hundred forty-six dollars.

(2) Beginning August 28, 2015, the county contribution set forth in paragraphs (a) to (c) of subdivision (1) of this subsection shall be adjusted in accordance with the following schedule based upon the prosecuting attorneys and circuit attorneys' retirement system's annual actuarial valuation report. If the system's funding ratio is:

(a) One hundred twenty percent or more, no monthly sum shall be transmitted;

(b) More than one hundred ten percent but less than one hundred twenty percent, the monthly sum transmitted shall be reduced fifty percent;

(c) At least ninety percent and up to and including one hundred ten percent, the monthly sum transmitted shall remain the same;

(d) At least eighty percent and less than ninety percent, the monthly sum transmitted shall be increased fifty percent; and

(e) Less than eighty percent, the monthly sum transmitted shall be increased one hundred percent.

6. Beginning August 28, 2003, the county treasurer shall at least monthly transmit the sums specified in subsection 5 of this section to the Missouri office of prosecution services for deposit to the credit of the Missouri prosecuting attorneys and circuit attorneys' retirement system fund. Moneys in the Missouri prosecuting attorneys and circuit attorneys' retirement system fund shall be used only for the purposes provided in sections 56.800 to 56.840, and for no other purpose.

7. Beginning August 28, 2003, the following surcharge for prosecuting attorneys and circuit attorneys shall be collected and paid as follows:

(1) There shall be assessed and collected a surcharge of four dollars in all criminal cases filed in the courts of this state including violation of any county ordinance **[**or**] ,** any violation of criminal or traffic laws of this state, including infractions, **and against any person who has pled guilty for any violation and paid a fine through a fine collection center,** but no such surcharge shall be assessed when the costs are waived or are to be paid by the state, county, or municipality or when a criminal proceeding or the defendant has been dismissed by the court **[**or against any person who has pled guilty and paid their fine pursuant to subsection 4 of section

476.385**]**. For purposes of this section, the term "county ordinance" shall include any ordinance of the city of St. Louis;

(2) The clerk responsible for collecting court costs in criminal cases shall collect and disburse such amounts as provided by sections 488.010 to 488.026. Such funds shall be payable to the prosecuting attorneys and circuit attorneys' retirement fund. Moneys credited to the prosecuting attorneys and circuit attorneys' retirement fund shall be used only for the purposes provided for in sections 56.800 to 56.840 and for no other purpose.

8. The board may accept gifts, donations, grants and bequests from private or public sources to the Missouri prosecuting attorneys and circuit attorneys' retirement system fund.

9. No state moneys shall be used to fund section 56.700 and sections 56.800 to 56.840 unless provided for by law.

57.095. SERVICE OF PROCESS, IMMUNITY FROM LIABILITY FOR SHERIFFS AND LAW ENFORCEMENT OFFICERS, WHEN. — Notwithstanding the provisions of section 537.600 to the contrary, sheriffs or any other law enforcement officers shall have immunity from any liability, civil or criminal, while conducting service of process at the direction of any court to the extent that the officers' actions do not violate clearly established statutory or constitutional rights of which a reasonable person would have known.

105.711. LEGAL EXPENSE FUND CREATED — OFFICERS, EMPLOYEES, AGENCIES, CERTAIN HEALTH CARE PROVIDERS COVERED, PROCEDURE — RULES REGARDING CONTRACT PROCEDURES AND DOCUMENTATION OF CARE — CERTAIN CLAIMS, LIMITATIONS — FUNDS NOT TRANSFERABLE TO GENERAL REVENUE — RULES. — 1. There is hereby created a "State Legal Expense Fund" which shall consist of moneys appropriated to the fund by the general assembly and moneys otherwise credited to such fund pursuant to section 105.716.

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

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

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

(3) (a) Any physician, psychiatrist, pharmacist, podiatrist, dentist, nurse, or other health care provider licensed to practice in Missouri under the provisions of chapter 330, 332, 334, 335, 336, 337 or 338 who is employed by the state of Missouri or any agency of the state under formal contract to conduct disability reviews on behalf of the department of elementary and secondary education or provide services to patients or inmates of state correctional facilities on a part-time basis, and any physician, psychiatrist, pharmacist, podiatrist, dentist, nurse, or other health care provider licensed to practice in Missouri under the provisions of chapter 330, 332, 334, 335, 336, 337, or 338 who is under formal contract to provide services to patients or inmates at a county jail on a part-time basis;

(b) Any physician licensed to practice medicine in Missouri under the provisions of chapter 334 and his professional corporation organized pursuant to chapter 356 who is employed by or under contract with a city or county health department organized under chapter 192 or chapter 205, or a city health department operating under a city charter, or a combined city-county health department to provide services to patients for medical care caused by pregnancy, delivery, and child care, if such medical services are provided by the physician pursuant to the contract without

compensation or the physician is paid from no other source than a governmental agency except for patient co-payments required by federal or state law or local ordinance;

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

(d) Any physician licensed pursuant to chapter 334 who is affiliated with and receives no compensation from a nonprofit entity qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, which offers a free health screening in any setting or any physician, nurse, physician assistant, dental hygienist, dentist, or other health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338 who provides health care services within the scope of his or her license or registration at a city or county health department organized under chapter 192 or chapter 205, a city health department operating under a city charter, or a combined city-county health department, or a nonprofit community health center qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, **excluding federally funded community health centers as specified in paragraph (c) of this subdivision and rural health clinics under 42 U.S.C. 1396d(l)(1),** if such services are restricted to primary care and preventive health services, provided that such services shall not include the performance of an abortion, and if such health services are provided by the health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338 without compensation. MO HealthNet or Medicare payments for primary care and preventive health services provided by a health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338 who volunteers at a **[**free**]** **community** health clinic is not compensation for the purpose of this section if the total payment is assigned to the **[**free**]** **community** health clinic. For the purposes of the section, "**[**free**]** **community** health clinic" means a nonprofit community health center qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1987, as amended, that provides primary care and preventive health services to people without health insurance coverage **[**for the services provided without charge**]**. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars, for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars. Liability or malpractice insurance obtained and maintained in force by or on behalf of any health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338 shall not be considered available to pay that portion of a judgment or claim for which the state legal expense fund is liable under this paragraph;

(e) Any physician, nurse, physician assistant, dental hygienist, or dentist licensed or registered to practice medicine, nursing, or dentistry or to act as a physician assistant or dental hygienist in Missouri under the provisions of chapter 332, 334, or 335, or lawfully practicing, who provides medical, nursing, or dental treatment within the scope of his license or registration to students of a school whether a public, private, or parochial elementary or secondary school or summer camp, if such physician's treatment is restricted to primary care and preventive health

services and if such medical, dental, or nursing services are provided by the physician, dentist, physician assistant, dental hygienist, or nurse without compensation. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars, for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars; or

(f) Any physician licensed under chapter 334, or dentist licensed under chapter 332, providing medical care without compensation to an individual referred to his or her care by a city or county health department organized under chapter 192 or 205, a city health department operating under a city charter, or a combined city-county health department, or nonprofit health center qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or a federally funded community health center organized under Section 315, 329, 330, or 340 of the Public Health Services Act, 42 U.S.C. Section 216, 254c; provided that such treatment shall not include the performance of an abortion. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of one million dollars for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed one million dollars for any one claimant, and insurance policies purchased under the provisions of section 105.721 shall be limited to one million dollars. Liability or malpractice insurance obtained and maintained in force by or on behalf of any physician licensed under chapter 334, or any dentist licensed under chapter 332, shall not be considered available to pay that portion of a judgment or claim for which the state legal expense fund is liable under this paragraph;

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

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

(6) Any social welfare board created under section 205.770 and the members and officers thereof upon conduct of such officer or employee while acting in his or her capacity as a board member or officer, and any physician, nurse, physician assistant, dental hygienist, dentist, or other health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338 who is referred to provide medical care without compensation by the board and who provides health care services within the scope of his or her license or registration as prescribed by the board; or

(7) Any person who is selected or appointed by the state director of revenue under subsection 2 of section 136.055 to act as an agent of the department of revenue, to the extent that such agent's actions or inactions upon which such claim or judgment is based were performed in the course of the person's official duties as an agent of the department of revenue and in the manner required by state law or department of revenue rules.

3. The department of health and senior services shall promulgate rules regarding contract procedures and the documentation of care provided under paragraphs (b), (c), (d), (e), and (f) of subdivision (3) of subsection 2 of this section. The limitation on payments from the state legal expense fund or any policy of insurance procured pursuant to the provisions of section 105.721, provided in subsection 7 of this section, shall not apply to any claim or judgment arising under paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section. Any claim

or judgment arising under paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section shall be paid by the state legal expense fund or any policy of insurance procured pursuant to section 105.721, to the extent damages are allowed under sections 538.205 to 538.235. Liability or malpractice insurance obtained and maintained in force by any health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338 for coverage concerning his or her private practice and assets shall not be considered available under subsection 7 of this section to pay that portion of a judgment or claim for which the state legal expense fund is liable under paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section. However, a health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338 may purchase liability or malpractice insurance for coverage of liability claims or judgments based upon care rendered under paragraphs (c), (d), (e), and (f) of subdivision (3) of subsection 2 of this section which exceed the amount of liability coverage provided by the state legal expense fund under those paragraphs. Even if paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section is repealed or modified, the state legal expense fund shall be available for damages which occur while the pertinent paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section is in effect.

4. The attorney general shall promulgate rules regarding contract procedures and the documentation of legal practice provided under subdivision (5) of subsection 2 of this section. The limitation on payments from the state legal expense fund or any policy of insurance procured pursuant to section 105.721 as provided in subsection 7 of this section shall not apply to any claim or judgment arising under subdivision (5) of subsection 2 of this section. Any claim or judgment arising under subdivision (5) of subsection 2 of this section shall be paid by the state legal expense fund or any policy of insurance procured pursuant to section 105.721 to the extent damages are allowed under sections 538.205 to 538.235. Liability or malpractice insurance otherwise obtained and maintained in force shall not be considered available under subsection 7 of this section to pay that portion of a judgment or claim for which the state legal expense fund is liable under subdivision (5) of subsection 2 of this section. However, an attorney may obtain liability or malpractice insurance for coverage of liability claims or judgments based upon legal practice rendered under subdivision (5) of subsection 2 of this section that exceed the amount of liability coverage provided by the state legal expense fund under subdivision (5) of subsection 2 of this section. Even if subdivision (5) of subsection 2 of this section is repealed or amended, the state legal expense fund shall be available for damages that occur while the pertinent subdivision (5) of subsection 2 of this section is in effect.

5. All payments shall be made from the state legal expense fund by the commissioner of administration with the approval of the attorney general. Payment from the state legal expense fund of a claim or final judgment award against a health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, described in paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section, or against an attorney in subdivision (5) of subsection 2 of this section, shall only be made for services rendered in accordance with the conditions of such paragraphs. In the case of any claim or judgment against an officer or employee of the state or any agency of the state based upon conduct of such officer or employee arising out of and performed in connection with his or her official duties on behalf of the state or any agency of the state that would give rise to a cause of action under section 537.600, the state legal expense fund shall be liable, excluding punitive damages, for:

(1) Economic damages to any one claimant; and

(2) Up to three hundred fifty thousand dollars for noneconomic damages.

The state legal expense fund shall be the exclusive remedy and shall preclude any other civil actions or proceedings for money damages arising out of or relating to the same subject matter against the state officer or employee, or the officer's or employee's estate. No officer or employee of the state or any agency of the state shall be individually liable in his or her personal capacity

for conduct of such officer or employee arising out of and performed in connection with his or her official duties on behalf of the state or any agency of the state. The provisions of this subsection shall not apply to any defendant who is not an officer or employee of the state or any agency of the state in any proceeding against an officer or employee of the state or any agency of the state. Nothing in this subsection shall limit the rights and remedies otherwise available to a claimant under state law or common law in proceedings where one or more defendants is not an officer or employee of the state or any agency of the state.

6. The limitation on awards for noneconomic damages provided for in this subsection shall be increased or decreased on an annual basis effective January first of each year in accordance with the Implicit Price Deflator for Personal Consumption Expenditures as published by the Bureau of Economic Analysis of the United States Department of Commerce. The current value of the limitation shall be calculated by the director of the department of insurance, financial institutions and professional registration, who shall furnish that value to the secretary of state, who shall publish such value in the Missouri Register as soon after each January first as practicable, but it shall otherwise be exempt from the provisions of section 536.021.

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

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

9. Any rule or portion of a rule, as that term is defined in section 536.010, that is promulgated under the authority delegated in sections 105.711 to 105.726 shall become effective only if it has been promulgated pursuant to the provisions of chapter 536. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with the provisions of chapter 536. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

302.065. RETENTION OF COPIES OF DOCUMENTS PROHIBITED, WHEN — DESTRUCTION OF CERTAIN SOURCE DOCUMENTS REQUIRED — INAPPLICABILITY — CIVIL ACTION AUTHORIZED, WHEN. — 1. Notwithstanding section 32.090 or any other provision of the law to the contrary, and except as provided in subsection 4 of this section, the department of revenue shall not retain copies, in any format, of source documents presented by individuals applying for or holding driver's licenses or nondriver's licenses. The department of revenue shall not use technology to capture digital images of source documents so that the images are capable of being retained in electronic storage in a transferable format.

2. By December 31, 2013, the department of revenue shall securely destroy so as to make irretrievable any source documents that have been obtained from driver's license or nondriver's license applicants after September 1, 2012.

3. As long as the department of revenue has the authority to issue a concealed carry endorsement, the department shall not retain copies of any certificate of qualification for a concealed carry endorsement presented to the department for an endorsement on a driver's license or nondriver's license under section 571.101. The department of revenue shall not use technology to capture digital images of a certificate of qualification nor shall the department

retain digital or electronic images of such certificates. The department of revenue shall merely verify whether the applicant for a driver's license or nondriver's license has presented a certificate of qualification which will allow the applicant to obtain a concealed carry endorsement. By December 31, 2013, the department of revenue shall securely destroy so as to make irretrievable any copies of certificates of qualification that have been obtained from driver's license or nondriver's license applicants.

4. The provisions of this section shall not apply to:

(1) Original application forms, which may be retained but not scanned;

(2) Test score documents issued by state highway patrol driver examiners;

(3) Documents demonstrating lawful presence of any applicant who is not a citizen of the United States, including documents demonstrating duration of the person's lawful presence in the United States; and

(4) Any document required to be retained under federal motor carrier regulations in Title 49, Code of Federal Regulations, including but not limited to documents required by federal law for the issuance of a commercial driver's license and a commercial driver instruction permit; and

(5) Any other document at the request of and for the convenience of the applicant where the applicant requests the department of revenue review alternative documents as proof required for issuance of a **[**driver**]** **driver's** license, **[**nondriver**]** **nondriver's** license, or instruction permit.

5. As used in this section, the term "source documents" means original or certified copies, where applicable, of documents presented by an applicant as required under 6 CFR Part 37 to the department of revenue to apply for a driver's license or nondriver's license. Source documents shall also include any documents required for the issuance**[**, renewal, or replacement**]** of driver's licenses or nondriver's licenses by the department of revenue under the provisions of this chapter or accompanying regulations.

6. Any person harmed or damaged by any violation of this section may bring a civil action for damages, including noneconomic and punitive damages, as well as injunctive relief, in the circuit court where that person resided at the time of the violation or in the circuit court **[**or the circuit court**]** of Cole County to recover such damages from the department of revenue and any persons participating in such violation. Sovereign immunity shall not be available as a defense for the department of revenue in such an action. In the event the plaintiff prevails on any count of his or her claim, the plaintiff shall be entitled to recover reasonable attorney fees from the defendants.

302.067. LAWFUL PRESENCE OR CITIZENSHIP, PROOF OF TO BE PRESENTED ONCE — EXCEPTIONS. — Any original or certified copy, if applicable, of a document presented by an applicant under this chapter and its accompanying regulations as proof of lawful presence or citizenship to the department of revenue to apply for a driver's license, nondriver's license or instruction permit shall not be required to be presented by the applicant for any subsequent new, renewal, or duplicate application, except:

(1) Documents demonstrating lawful presence of any applicant who is not a citizen of the United States, including documents demonstrating duration of the person's lawful presence in the United States, may be required to be presented upon each subsequent application;

(2) The department may require the documents to be presented if it is reasonably believed by the department that the prior driver's license or non-driver's license was issued as a result of a fraudulent act of the applicant;

(3) Applicants applying for or renewing a commercial driver's license or commercial driver's instruction permit; or

(4) The department may require an applicant to present such documents demonstrating lawful presence or citizenship specified in this section in order to correct any known or presumed error on the driver's license, nondriver's license, or instruction permit.

334.950. COLLABORATION BETWEEN PROVIDERS AND MEDICAL RESOURCE CENTERS — DEFINITIONS — RECOMMENDATIONS — RULEMAKING AUTHORITY, SAFE CARE PROVIDERS. — 1. As used in this section, the following terms shall mean:

(1) "Child abuse medical resource centers", medical institutions affiliated with accredited children's hospitals or recognized institutions of higher education with accredited medical school programs that provide training, support, mentoring, and peer review to SAFE CARE providers in Missouri;

(2) "SAFE CARE provider", a physician, advanced practice nurse, or physician's assistant licensed in this state who provides medical diagnosis and treatment to children suspected of being victims of abuse and who receives:

(a) Missouri-based initial intensive training regarding child maltreatment from the SAFE CARE network;

(b) Ongoing update training on child maltreatment from the SAFE CARE network;

(c) Peer review and new provider mentoring regarding the forensic evaluation of children suspected of being victims of abuse from the SAFE CARE network;

(3) "Sexual assault forensic examination child abuse resource education network" or "SAFE CARE network", a network of SAFE CARE providers and child abuse medical resource centers that collaborate to provide forensic evaluations, medical training, support, mentoring, and peer review for SAFE CARE providers for the medical evaluation of child abuse victims in this state to improve outcomes for children who are victims of or at risk for child maltreatment by enhancing the skills and role of the medical provider in a multidisciplinary context.

2. Child abuse medical resource centers may collaborate directly or through the use of technology with SAFE CARE providers to promote improved services to children who are suspected victims of abuse that will need to have a forensic medical evaluation conducted by providing specialized training for forensic medical evaluations for children conducted in a hospital, child advocacy center, or by a private health care professional without the need for a collaborative agreement between the child abuse medical resource center and a SAFE CARE provider.

3. SAFE CARE providers who are a part of the SAFE CARE network in Missouri may collaborate directly or through the use of technology with other SAFE CARE providers and child abuse medical resource centers to promote improved services to children who are suspected victims of abuse that will need to have a forensic medical evaluation conducted by providing specialized training for forensic medical evaluations for children conducted in a hospital, child advocacy center, or by a private health care professional without the need for a collaborative agreement between the child abuse medical resource center and a SAFE CARE provider.

4. The SAFE CARE network shall develop recommendations concerning medically based screening processes and forensic evidence collection for children who may be in need of an emergency examination following an alleged sexual assault. Such recommendations shall be provided to the SAFE CARE providers, child advocacy centers, hospitals and licensed practitioners that provide emergency examinations for children suspected of being victims of abuse.

5. The department of public safety shall establish rules and make payments to SAFE CARE providers, out of appropriations made for that purpose, who provide forensic examinations of persons under eighteen years of age who are alleged victims of physical abuse.

6. The department shall establish maximum reimbursement rates for charges submitted under this section, which shall reflect the reasonable cost of providing the forensic exam.

7. The department shall only reimburse providers for forensic evaluations and case reviews. The department shall not reimburse providers for medical procedures, facility fees, supplies, or laboratory/radiology tests.

8. In order for the department to provide reimbursement, the child shall be the subject of a child abuse investigation or reported to the children's division as a result of the examination.

9. A minor may consent to examination under this section. Such consent is not subject to disaffirmance because of the individual's status as a minor, and the consent of a parent or guardian of the minor is not required for such examination.

408.040. INTEREST ON JUDGMENTS, HOW REGULATED — PREJUDGMENT INTEREST ALLOWED WHEN, PROCEDURE. — 1. **Judgments shall accrue interest on the judgment balance as set forth in this section. The "judgment balance" is defined as the total amount of the judgment awarded on the day judgment is entered including, but not limited to, principal, prejudgment interest, and all costs and fees. Post-judgment payments or credits shall be applied first to post-judgment costs, then to post-judgment interest, and then to the judgment balance.**

2. In all nontort actions, interest shall be allowed on all money due upon any judgment or order of any court from the date judgment is entered by the trial court until satisfaction be made by payment, accord or sale of property; all such judgments and orders for money upon contracts bearing more than nine percent interest shall bear the same interest borne by such contracts, and all other judgments and orders for money shall bear nine percent per annum until satisfaction made as aforesaid.

[2.**]** **3.** Notwithstanding the provisions of subsection **[**1**]** **2** of this section, in tort actions, interest shall be allowed on all money due upon any judgment or order of any court from the date **[**of**]** judgment is entered by the trial court until full satisfaction. All such judgments and orders for money shall bear a per annum interest rate equal to the intended Federal Funds Rate, as established by the Federal Reserve Board, plus five percent, until full satisfaction is made. The judgment shall state the applicable interest rate, which shall not vary once entered. In tort actions, if a claimant has made a demand for payment of a claim or an offer of settlement of a claim, to the party, parties or their representatives, and to such party's liability insurer if known to the claimant, and the amount of the judgment or order exceeds the demand for payment or offer of settlement, then prejudgment interest shall be awarded, calculated from a date ninety days after the demand or offer was received, as shown by the certified mail return receipt, or from the date the demand or offer was rejected without counter offer, whichever is earlier. In order to qualify as a demand or offer pursuant to this section, such demand must:

(1) Be in writing and sent by certified mail return receipt requested; and

(2) Be accompanied by an affidavit of the claimant describing the nature of the claim, the nature of any injuries claimed and a general computation of any category of damages sought by the claimant with supporting documentation, if any is reasonably available; and

(3) For wrongful death, personal injury, and bodily injury claims, be accompanied by a list of the names and addresses of medical providers who have provided treatment to the claimant or decedent for such injuries, copies of all reasonably available medical bills, a list of employers if the claimant is seeking damages for loss of wages or earning, and written authorizations sufficient to allow the party, its representatives, and liability insurer if known to the claimant to obtain records from all employers and medical care providers; and

(4) Reference this section and be left open for ninety days.

Unless the parties agree in writing to a longer period of time, if the claimant fails to file a cause of action in circuit court prior to a date one hundred twenty days after the demand or offer was received, then the court shall not award prejudgment interest to the claimant. If the claimant is a minor or incompetent or deceased, the affidavit may be signed by any person who reasonably appears to be qualified to act as next friend or conservator or personal representative. If the claim is one for wrongful death, the affidavit may be signed by any person qualified pursuant to section 537.080 to make claim for the death. Nothing contained herein shall limit the right of a claimant,

in actions other than tort actions, to recover prejudgment interest as otherwise provided by law or contract.

[3.**]** **4.** In tort actions, a judgment for prejudgment interest awarded pursuant to this **[**subsection**]** **section** should bear interest at a per annum interest rate equal to the intended Federal Funds Rate, as established by the Federal Reserve Board, plus three percent. The judgment shall state the applicable interest rate, which shall not vary once entered.

452.556. HANDBOOK, CONTENTS, AVAILABILITY. — 1. The state courts administrator shall create a handbook or be responsible for the approval of a handbook outlining the following:

(1) What is included in a parenting plan;

(2) The benefits of the parties agreeing to a parenting plan which outlines education, custody and cooperation between parents;

(3) The benefits of alternative dispute resolution;

(4) The pro se family access motion for enforcement of custody or temporary physical custody;

(5) The underlying assumptions for supreme court rules relating to child support; and

(6) A party's duties and responsibilities pursuant to section 452.377, including the possible consequences of not complying with section 452.377. The handbooks shall be distributed to each court and shall be available in an alternative format, including Braille, large print, or electronic or audio format upon request by a person with a disability, as defined by the federal Americans with Disabilities Act.

2. Each court shall **[**mail**]** **provide** a copy of the handbook developed pursuant to subsection 1 of this section to each party in a dissolution or legal separation action filed pursuant to section 452.310, or any proceeding in modification thereof, where minor children are involved, or may provide the petitioner with a copy of the handbook at the time the petition is filed and direct that a copy of the handbook be served along with the petition and summons upon the respondent.

3. The court shall make the handbook available to interested state agencies and members of the public.

454.500. MODIFICATION OF AN ADMINISTRATIVE ORDER, PROCEDURE, EFFECT — RELIEF FROM ORDERS, WHEN. — 1. At any time after the entry of an order pursuant to sections 454.470 and 454.475, the obligated parent, the division, or the person or agency having custody of the dependent child may file a motion for modification with the director. Such motion shall be in writing, shall set forth the reasons for modification, and shall state the address of the moving party. The motion shall be served by the moving party in the manner provided for in subsection 5 of section 454.465 upon the obligated parent or the party holding the support rights, as appropriate. In addition, if the support rights are held by the division of family services on behalf of the state, a true copy of the motion shall be mailed by the moving party by certified mail to the person having custody of the dependent child at the last known address of that person. A hearing on the motion shall then be provided in the same manner, and determinations shall be based on considerations set out in section 454.475, unless the party served fails to respond within thirty days, in which case the director may enter an order by default. If the child for whom the order applies is no longer in the custody of a person receiving public assistance or receiving support enforcement services from the department, or a division thereof, pursuant to section 454.425, the director may certify the matter for hearing to the circuit court in which the order was filed pursuant to section 454.490 in lieu of holding a hearing pursuant to section 454.475. If the director certifies the matter for hearing to the circuit court, service of the motion to modify shall be had in accordance with the provisions of subsection 5 of section 452.370. If the director does not certify the matter for hearing to the circuit court, service of the motion to modify shall be considered complete upon personal service, or on the date of mailing, if sent by certified mail. For the purpose of 42 U.S.C. 666(a)(9)(C), the director shall be considered the

appropriate agent to receive the notice of the motion to modify for the obligee or the obligor, but only in those instances in which the matter is not certified to circuit court for hearing, and only when service of the motion is attempted on the obligee or obligor by certified mail.

2. A motion for modification made pursuant to this section shall not stay the director from enforcing and collecting upon the existing order pending the modification proceeding unless so ordered by the court.

3. Only payments accruing subsequent to the service of the motion for modification upon all named parties to the motion may be modified. Modification may be granted only upon a showing of a change of circumstances so substantial and continuing as to make the terms unreasonable. In a proceeding for modification of any child support award, the director, in determining whether or not a substantial change in circumstances has occurred, shall consider all financial resources of both parties, including the extent to which the reasonable expenses of either party are, or should be, shared by a spouse or other person with whom he or she cohabits, and the earning capacity of a party who is not employed. If the application of the guidelines and criteria set forth in supreme court rule 88.01 to the financial circumstances of the parties would result in a change of child support from the existing amount by twenty percent or more, then a prima facie showing has been made of a change of circumstances so substantial and continuing as to make the present terms unreasonable.

4. **If the division has entered an order under section 454.470 or 454.500, and an additional child or children not the subject of the order are born to the parties, the division may, following the filing of a motion to modify, service of process, and opportunity for a hearing pursuant to this section, modify the underlying child support order to include a single child support obligation for all children of the parties in conformity with the criteria set forth in supreme court rule 88.01.**

5. The circuit court may, upon such terms as may be just, relieve a parent from an administrative order entered against that parent because of mistake, inadvertence, surprise, or excusable neglect.

[5.**]** **6.** No order entered pursuant to section 454.476 shall be modifiable pursuant to this section, except that an order entered pursuant to section 454.476 shall be amended by the director to conform with any modification made by the court that entered the court order upon which the director based his or her order.

[6.**]** **7.** When the party seeking modifications has met the burden of proof set forth in subsection 3 of this section, then the child support shall be determined in conformity with the criteria set forth in supreme court rule 88.01.

[7.**]** **8.** The last four digits of the Social Security number of the parents shall be recorded on any order entered pursuant to this section. The full Social Security number of each party and each child shall be retained in the manner required by section 509.520.

455.007. MOOTNESS DOCTRINE, PUBLIC INTEREST EXCEPTION TO APPLY UPON EXPIRATION OF THE ORDER. — Notwithstanding any other provision of law to the contrary, the public interest exception to the mootness doctrine shall apply to an appeal of a full order of protection which**[**:

(1)**]** has expired**[**; and

(2) Subjects the person against whom such order is issued to significant collateral consequences by the mere existence of such full order of protection after its expiration**]**.

456.950. DEFINITION — PROPERTY AND INTERESTS IN PROPERTY, HOW HELD — DEATH OF SETTLOR, EFFECT OF — MARITAL PROPERTY RIGHTS, EFFECT ON. — 1. As used in this section, "qualified spousal trust" means a trust:

(1) The settlors of which are husband and wife at the time of the creation of the trust; and

(2) The terms of which provide that during the joint lives of the settlors all property or interests in property transferred to, or held by, the trustee are:

(a) Held and administered in one trust for the benefit of both settlors, revocable by either or both settlors acting together while either or both are alive, and each settlor having the right to receive distributions of income or principal, whether mandatory or within the discretion of the trustee, from the entire trust for the joint lives of the settlors and for the survivor's life; or

(b) Held and administered in two separate shares of one trust for the benefit of each of the settlors, with the trust revocable by each settlor with respect to that settlor's separate share of that trust without the participation or consent of the other settlor, and each settlor having the right to receive distributions of income or principal, whether mandatory or within the discretion of the trustee, from that settlor's separate share for that settlor's life; or

(c) Held and administered under the terms and conditions contained in paragraphs (a) and (b) of this subdivision.

2. A qualified spousal trust may contain any other trust terms that are not inconsistent with the provisions of this section.

3. **Any** property or interests in property **[**held as tenants by the entirety by a husband and wife**]** that **[**is**] are** at any time transferred to the trustee of a qualified spousal trust of which the husband and wife are the settlors**,** shall **thereafter** be **[**held and**]** administered as provided by the trust terms in accordance with paragraph (a), (b), or (c) of subdivision (2) of subsection 1 of this section**[**, and all such**] . All trust** property and interests in property **deemed for purposes of this section to be held as tenants by the entirety**, including the proceeds thereof, the income thereon, and any property into which such property, proceeds, or income may be converted, shall **[**thereafter**]** have the same immunity from the claims of the separate creditors of the settlors as would have existed if the settlors had continued to hold that property as husband and wife as tenants by the entirety**. Property or interests in property held by a husband and wife as tenants by the entirety or as joint tenants or other form of joint ownership with right of survivorship shall be conclusively deemed for purposes of this section to be held as tenants by the entirety upon its transfer to the qualified spousal trust. All such transfers shall retain said immunity**, so long as:

(1) Both settlors are alive and remain married; and

(2) The property, proceeds, or income continue to be held in trust by the trustee of the qualified spousal trust.

4. Property or interests in property held by a husband and wife or held in the sole name of a husband or wife that **[**is**] are** not held as tenants by the entirety **or deemed held as tenants by the entirety for purposes of this section** and **[**is**] are** transferred to a qualified spousal trust shall be held as directed in the qualified spousal trust's governing instrument or in the instrument of transfer and the rights of any claimant to any interest in that property shall not be affected by this section.

5. Upon the death of each settlor, all property and interests in property held by the trustee of the qualified spousal trust shall be distributed as directed by the then current terms of the governing instrument of such trust. Upon the death of the first settlor to die, if immediately prior to death the predeceased settlor's interest in the qualified spousal trust was then held in such settlor's separate share, the property or interests in property in such settlor's separate share may pass into an irrevocable trust for the benefit of the surviving settlor upon such terms as the governing instrument shall direct, including without limitation a spendthrift provision as provided in section 456.5-502.

6. No transfer by a husband and wife as settlors to a qualified spousal trust shall affect or change either settlor's marital property rights to the transferred property or interest therein immediately prior to such transfer in the event of dissolution of marriage of the spouses, unless both spouses otherwise expressly agree in writing.

7. This section shall apply to all trusts which fulfill the criteria set forth in this section for a qualified spousal trust regardless of whether such trust was created before or after August 28, 2011.

456.4-420. NO-CONTEST CLAUSE, CLAIMS FOR RELIEF. — 1. If a trust instrument containing a no-contest clause is or has become irrevocable, an interested person may file a petition to the court for an interlocutory determination whether a particular motion, petition, or other claim for relief by the interested person would trigger application of the no-contest clause or would otherwise trigger a forfeiture that is enforceable under applicable law and public policy.

2. The petition described in subsection 1 of this section shall be verified under oath. The petition may be filed by an interested person either as a separate judicial proceeding, or brought with other claims for relief in a single judicial proceeding, all in the manner prescribed generally for such proceedings under this chapter. If a petition is joined with other claims for relief, the court shall enter its order or judgment on the petition before proceeding any further with any other claim for relief joined therein. In ruling on such a petition, the court shall consider the text of the clause, the context to the terms of the trust instrument as a whole, and in the context of the verified factual allegations in the petition. No evidence beyond the pleadings and the trust instrument shall be taken except as required to resolve an ambiguity in the no-contest clause.

3. An order or judgment determining a petition described in subsection 1 of this section shall have the effect set forth in subsections 4 and 5 of this section, and shall be subject to appeal as with other final judgments. If the order disposes of fewer than all claims for relief in a judicial proceeding, that order is subject to interlocutory appeal in accordance with the applicable rules for taking such an appeal. If an interlocutory appeal is taken, the court may stay the pending judicial proceeding until final disposition of said appeal on such terms and conditions as the court deems reasonable and proper under the circumstances. A final ruling on the applicability of a no-contest clause shall not preclude any later filing and adjudication of other claims related to the trust.

4. An order or judgment, in whole or in part, on a petition described in subsection 1 of this section shall result in the no-contest clause being enforceable to the extent of the court's ruling and shall govern application of the no-contest clause to the extent that the interested person then proceeds forward with the claims described therein. In the event such an interlocutory order or judgment is vacated, reversed, or otherwise modified on appeal, no interested person shall be prejudiced by any reliance, through action, inaction, or otherwise on the order or judgment prior to final disposition of the appeal.

5. An order or judgment shall have effect only as to the specific trust terms and factual basis recited in the petition. If claims are later filed that are materially different than those upon which the order or judgment is based, then to the extent such new claims are raised, the party in whose favor the order or judgment was entered shall have no protection from enforcement of the no-contest clause otherwise afforded by the order and judgment entered under this section.

6. For purposes of this section, a "no-contest clause" shall mean a provision in a trust instrument purporting to rescind a donative transfer to, or a fiduciary appointment of, any person or that otherwise effects a forfeiture of some or all of an interested person's beneficial interest in a trust estate as a result of some action taken by the beneficiary. This definition shall not be construed in any way as determining whether a no-contest clause is enforceable under applicable law and public policy in a particular factual situation. As used in this section, the term "no-contest clause" shall also mean an "in terrorem clause".

7. A no-contest clause is not enforceable against an interested person in, but not limited to, the following circumstances:

(1) Filing a motion, petition, or other claim for relief objecting to the jurisdiction or venue of the court over a proceeding concerning a trust or over any person joined or attempted to be joined in such a proceeding;

(2) Filing a motion, petition, or other claim for relief concerning an accounting, report, or notice that has or should have been made by a trustee, provided the interested

person otherwise has standing to do so under applicable law including, but not limited to, section 456.6-603;

(3) Filing a motion, petition, or other claim for relief under chapter 475 concerning the appointment of a guardian or conservator for the settlor;

(4) Filing a motion, petition, or other claim for relief under chapter 404 concerning the settlor;

(5) Disclosure to any person of information concerning a trust instrument or that is relevant to a proceeding before the court concerning the trust instrument or property of the trust estate, unless such disclosure is otherwise prohibited by law;

(6) Filing a motion, pleading, or other claim for relief seeking approval of a nonjudicial settlement agreement concerning a trust instrument, as set forth in section 456.1-111;

(7) To the extent a petition under subsection 1 of this section is limited to the procedure and purpose described therein.

8. In any proceeding brought under this section, the court may award costs, expenses, and attorney's fees to any party as provided in section 456.10-1004.

474.395. NO-CONTEST CLAUSES, APPLICATION OF, PETITION MAY BE FILED — DEFINITION. — 1. If a will contains a no-contest clause, an interested person may file a petition with the court for a determination whether a particular motion, petition, action, or other claim for relief by the interested person would trigger application of the no-contest clause or would otherwise trigger a forfeiture that is enforceable under applicable law and public policy, which application would be adjudicated in the manner prescribed in section 456.4-420, and subject to the provisions set forth therein.

2. For purposes of this section, a "no-contest clause" shall mean a provision in a will purporting to rescind a donative transfer to, or a fiduciary appointment of, any person who institutes a proceeding challenging the validity of all or part of the will or that otherwise effects a forfeiture of some or all of an interested person's beneficial interest in the estate as a result of some action taken by the beneficiary. This definition shall not be construed in any way as determining whether a no-contest clause is enforceable under applicable law and public policy in a particular factual situation. As used in this section, the term "no-contest clause" shall also mean an "in terrorem clause".

477.160. JUDGES, EASTERN DISTRICT COURT OF APPEALS, NUMBER. — There shall be **[**twelve**]** **fourteen** judges of the eastern district of the court of appeals.

477.170. JUDGES, WESTERN DISTRICT COURT OF APPEALS, NUMBER. — There shall be **[**seven**]** **eleven** judges of the western district of the court of appeals.

477.180. JUDGES, SOUTHERN DISTRICT COURT OF APPEALS, NUMBER. — There shall be **[**five**]** **seven** judges of the southern district of the court of appeals.

478.320. ASSOCIATE CIRCUIT JUDGES, AUTHORIZED NUMBER — POPULATION DETERMINATION — ELECTION — RESTRICTIONS ON PRACTICE OF LAW OR PAID PUBLIC APPOINTMENT — RESIDENCY REQUIREMENT. — 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 three associate circuit judges and one additional associate circuit judge for each additional one hundred thousand inhabitants.

2. **[**When the office of state courts administrator indicates in an annual judicial weighted workload model for three consecutive years or more the need for four or more full-time judicial

positions in any judicial circuit having a population of one hundred thousand or more, there shall be one additional associate circuit judge position in such circuit for every four full-time judicial positions needed as indicated in the weighted workload model. In a multicounty circuit, the additional associate circuit judge positions shall be apportioned among the counties in the circuit on the basis of population, starting with the most populous county, then the next most populous county, and so forth.

3.**]** For purposes of this section, notwithstanding the provisions of section 1.100, 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.

[4.**] 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.

[5.**] 4.** In counties 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.

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

[7.**] 6.** No person shall be elected as an associate circuit judge unless he or she has resided in the county for which he or she is to be elected at least one year prior to the date of his or her 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.

478.437. CIRCUIT NO. 21, NUMBER OF JUDGES. — **[**The circuit court of the county of St. Louis, comprising circuit number twenty-one, shall be composed of nineteen divisions and nineteen judges**] 1. Beginning in fiscal year 2015, there shall be twenty circuit judges in the twenty-first judicial circuit. These judges shall sit in twenty divisions,** and each of the judges shall separately try causes, exercise the powers and perform all the duties imposed upon circuit judges.

2. Beginning in fiscal year 2015, there shall be one additional associate circuit judge position in the twenty-first judicial circuit. This associate circuit judgeship shall not be included in the statutory formula for authorizing additional judgeships per county under section 478.320.

478.464. ASSOCIATE CIRCUIT DIVISIONS NUMBERED — DIVISIONS TO SIT, WHERE — (JACKSON COUNTY). — **[**1.**]** In the sixteenth judicial circuit, **[**associate circuit divisions shall hereafter be numbered beginning with the number 25:

(1) Division 101 shall hereafter be division 25;
(2) Division 102 shall hereafter be division 26;
(3) Division 103 shall hereafter be division 27;
(4) Division 104 shall hereafter be division 28;
(5) Division 105 shall hereafter be division 29;
(6) Division 106 shall hereafter be division 30;
(7) Division 107 shall hereafter be division 31; and
(8) Division 108 shall hereafter be division 32.

2. Twelve months after construction of two new courtrooms in Independence is completed, there shall be one additional associate circuit judge in the sixteenth judicial circuit, to be known as division 33. The presiding judge of such circuit shall certify to the state of administration office the actual date of completion of said construction.

3.**] there shall be ten associate circuit judges. These judges shall sit in ten divisions, which shall be numbered beginning with the number 25.** Divisions 25, 26, 27, 29, and 31 shall sit in Kansas City and divisions 28, 30, 32, and 33 shall sit in Independence. **Division 34 shall sit in the location determined by the court en banc. The tenth associate circuit judgeship shall not be included in the statutory formula for authorizing additional associate circuit judgeships per county under section 478.320.**

478.513. CIRCUIT NO. 31, NUMBER OF JUDGES, DIVISIONS — WHEN JUDGES ELECTED. — 1. There shall be five circuit judges in the thirty-first judicial circuit **[**consisting of the county of Greene**]**. These judges shall sit in divisions numbered one, two, three, four and five.

2. The circuit judge in division three shall be elected in 1980. The circuit judges in divisions one, four and five shall be elected in 1982. The circuit judge in division two shall be elected in 1984.

3. Beginning in fiscal year 2015, there shall be one additional associate circuit judge in the thirty-first judicial circuit, and there shall continue to be the associate judge position authorized in fiscal year 2014. Neither associate circuit judgeship shall be included in the statutory formula for authorizing additional associate circuit judgeships per county under section 478.320.

478.600. CIRCUIT NO. 11, NUMBER OF JUDGES, DIVISIONS — WHEN JUDGES ELECTED — DRUG COMMISSIONER TO BECOME ASSOCIATE CIRCUIT JUDGE POSITION. — 1. There shall be four circuit judges in the eleventh judicial circuit **[**consisting of the county of St. Charles**]**. These judges shall sit in divisions numbered one, two, three and four. Beginning on January 1, 2007, there shall be six circuit judges in the eleventh judicial circuit and these judges shall sit in divisions numbered one, two, three, four, five, and seven. The division five associate circuit judge position and the division seven associate circuit judge position shall become circuit judge positions beginning January 1, 2007, and shall be numbered as divisions five and seven.

2. The circuit judge in division two shall be elected in 1980. The circuit judge in division four shall be elected in 1982. The circuit judge in division one shall be elected in 1984. The circuit judge in division three shall be elected in 1992. The circuit judges in divisions five and seven shall be elected for a six-year term in 2006.

3. Beginning January 1, 2007, the family court commissioner positions in the eleventh judicial circuit appointed under section 487.020 shall become associate circuit judge positions in all respects and shall be designated as divisions nine and ten respectively. These positions may retain the duties and responsibilities with regard to the family court. The associate circuit judges in divisions nine and ten shall be elected in 2006 for full four-year terms.

4. Beginning on January 1, 2007, the drug court commissioner position in the eleventh judicial circuit appointed under section 478.003 shall become an associate circuit judge position in all respects and shall be designated as division eleven. This position retains the duties and responsibilities with regard to the drug court. Such associate circuit judge shall be elected in 2006 for a full four-year term. This associate circuit judgeship shall not be included in the statutory formula for authorizing additional associate circuit judgeships per county under section 478.320.

5. Beginning in fiscal year 2015, there shall be one additional associate circuit judge position in the eleventh judicial circuit. The associate circuit judge shall be elected in 2016. This associate circuit judgeship shall not be included in the statutory formula for authorizing additional circuit judgeships per county under section 478.320.

478.610. CIRCUIT NO. 13, NUMBER OF JUDGES, DIVISIONS — WHEN JUDGES ELECTED — ADDITIONAL ASSOCIATE CIRCUIT JUDGE FOR BOONE COUNTY, WHEN. — 1. There shall be three circuit judges in the thirteenth judicial circuit consisting of the counties of Boone and Callaway. These judges shall sit in divisions numbered one, two and three. Beginning on

January 1, 2007, there shall be four circuit judges in the thirteenth judicial circuit and these judges shall sit in divisions numbered one, two, three, and four.

2. The circuit judge in division two shall be elected in 1980. The circuit judges in divisions one and three shall be elected in 1982. The circuit judge in division four shall be elected in 2006 for a two-year term and thereafter in 2008 for a full six-year term.

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

478.740. CIRCUIT NO. 38, NUMBER OF JUDGES — NUMBER OF DIVISIONS-ELECTION DATES. — 1. There shall be two circuit judges in the thirty-eighth judicial circuit. These judges shall sit in divisions numbered one and two.

2. The circuit judge in division two shall be elected in 2016, and such judicial position shall not be considered vacant or filled until January 1, 2017. The judge in division one shall be elected in 2018.

483.140. JUDGE TO SUPERINTEND KEEPING OF RECORDS. — It shall be the special duty of every judge of a court of record to examine into and superintend the manner in which the rolls and records of the court are made up and kept; to prescribe orders that will procure uniformity, regularity and accuracy in the transaction of the business of the court; to require that the records and files be properly maintained and entries be made at the proper times as required by law or supreme court rule, and that the duties of the clerks be performed according to law and supreme court rule; and if any clerk fail to comply with the law, the court shall proceed against him as for a misdemeanor. **The provisions of this section shall not be construed to permit the adoption of any local court rule that grants a judge the discretion to remove or direct the removal of any pleading, file, or communication from a court file or record without the agreement of all parties.**

488.014. OVERPAYMENT OF COURT COSTS, NO DUTY TO REFUND, WHEN. — No court of record in this state, municipal division of the circuit court, or any entity collecting court costs on their behalf shall be required to refund any overpayment of court costs in an amount not exceeding five dollars or to collect any due court costs in an amount of less than five dollars. Any such overpaid funds may be retained by the county for the operation of the circuit court**, except any overpaid funds owed to a municipal division of the circuit court may be retained by the municipality for the operation of the municipal court**.

488.026. SURCHARGE FOR ALL CRIMINAL CASES, AMOUNT — COUNTY ORDINANCE DEFINED — COLLECTION AND DEPOSIT OF FUNDS. — As provided by section 56.807, there shall be assessed and collected a surcharge of four dollars in all criminal cases filed in the courts of this state, including violations of any county ordinance **[**or**]** **,** any violation of criminal or traffic laws of this state, including infractions, **or against any person who has pled guilty of a violation and paid a fine through a fine collection center,** but no such surcharge shall be assessed when the costs are waived or are to be paid by the state, county, or municipality or when a criminal proceeding or the defendant has been dismissed by the court **[**or against any person who has pled guilty and paid their fine pursuant to subsection 4 of section 476.385**]**. For purposes of this section, the term "county ordinance" shall include any ordinance of the city of St. Louis. The clerk responsible for collecting court costs in criminal cases shall collect and disburse such amounts as provided by sections 488.010 to 488.020. Such funds shall be payable to the prosecuting attorneys and circuit attorneys' retirement fund.

488.305. COURT COSTS — CIRCUIT CLERK, DUTIES — SURCHARGE FOR GARNISHMENT CASES (STATUTORY LIENS). — 1. The clerk of the circuit court shall charge and collect fees for

the clerk's duties as prescribed by sections 429.090 and 429.120 in such amounts as are determined pursuant to sections 488.010 to 488.020.

2. The clerk of the circuit court may charge and collect in cases where a garnishment is granted, a surcharge not to exceed ten dollars for the clerk's duties. Any moneys collected under this subsection shall be placed in a fund to be used at the discretion of the circuit clerk to maintain and improve case processing and record preservation.

488.2206. CIRCUIT NO. 37, ADDITIONAL SURCHARGE FOR A COUNTY OR MUNICIPAL JUDICIAL FACILITY. — 1. In addition to all court fees and costs prescribed by law, a surcharge of up to ten dollars shall be assessed as costs in each court proceeding filed in any court within the thirty-first judicial circuit in all criminal cases including violations of any county or municipal ordinance or any violation of a criminal or traffic law of the state, including an infraction, except that no such surcharge 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 order, ordinance, or resolution by the county government where the violation occurred. For violations of municipal ordinances, no such surcharge shall be collected unless it is authorized, by order, ordinance, or resolution by the municipal government where the violation occurred. Such surcharges shall be collected and disbursed by the clerk of each respective court responsible for collecting court costs in the manner provided by sections 488.010 to 488.020, and shall be payable to the treasurer of the political subdivision authorizing such surcharge.

2. Each county or municipality shall use all funds received pursuant to this section only to pay for the costs associated with the land assemblage and purchase, construction, maintenance, and operation of any county or municipal judicial facility including, but not limited to, debt service, utilities, maintenance, and building security. The county or municipality shall maintain records identifying such operating costs, and any moneys not needed for the operating costs of the county or municipal judicial facility shall be transmitted quarterly to the general revenue fund of the county or municipality respectively.

488.2245. CITY OF FLORISSANT, ADDITIONAL SURCHARGE FOR A MUNICIPAL COURTHOUSE. — 1. In addition to all other court costs for municipal ordinance violations, any home rule city with more than fifty-two thousand but fewer than sixty-four thousand inhabitants and located in any county with a charter form of government and with more than nine hundred fifty thousand inhabitants may provide for additional court costs in an amount up to ten dollars per case for each municipal ordinance violation case filed before a municipal division judge or associate circuit judge.

2. Such cost shall be collected by the clerk and disbursed to the city at least monthly. The city shall use such additional costs only for the land assemblage and purchase, construction, maintenance, and upkeep of a municipal courthouse. The costs collected may be pledged to directly or indirectly secure bonds for the cost of land assemblage and purchase, construction, maintenance, and upkeep of the courthouse.

516.140. WHAT ACTIONS WITHIN TWO YEARS. — Within two years: An action for libel, slander, **injurious falsehood,** assault, battery, false imprisonment, criminal conversation, malicious prosecution or actions brought under section 290.140. An action by an employee for the payment of unpaid minimum wages, unpaid overtime compensation or liquidated damages by reason of the nonpayment of minimum wages or overtime compensation, and for the recovery of any amount under and by virtue of the provisions of the Fair Labor Standards Act of 1938 and amendments thereto, such act being an act of Congress, shall be brought within two years after the cause accrued.

516.350. JUDGMENTS PRESUMED TO BE PAID, WHEN — PRESUMPTION, HOW REBUTTED — INCLUSION IN THE AUTOMATED CHILD SUPPORT SYSTEM — JUDGMENT FOR UNPAID RENT, REVIVED BY PUBLICATION. — 1. Every judgment, order or decree of any court of record of the United States, or of this or any other state, territory or country, except for any judgment, order, or decree awarding child support or maintenance or dividing pension, retirement, life insurance, or other employee benefits in connection with a dissolution of marriage, legal separation or annulment which mandates the making of payments over a period of time or payments in the future, shall be presumed to be paid and satisfied after the expiration of ten years from the date of the original rendition thereof, or if the same has been revived upon personal service duly had upon the defendant or defendants therein, then after ten years from and after such revival, or in case a payment has been made on such judgment, order or decree, and duly entered upon the record thereof, after the expiration of ten years from the last payment so made, and after the expiration of ten years from the date of the original rendition or revival upon personal service, or from the date of the last payment, such judgment shall be conclusively presumed to be paid, and no execution, order or process shall issue thereon, nor shall any suit be brought, had or maintained thereon for any purpose whatever. An action to emancipate a child, and any personal service or order rendered thereon, shall not act to revive the support order.

2. In any judgment, order, or decree awarding child support or maintenance, each periodic payment shall be presumed paid and satisfied after the expiration of ten years from the date that periodic payment is due, unless the judgment has been otherwise revived as set out in subsection 1 of this section. This subsection shall take effect as to all such judgments, orders, or decrees which have not been presumed paid pursuant to subsection 1 of this section as of August 31, 1982.

3. In any judgment, order, or decree dividing pension, retirement, life insurance, or other employee benefits in connection with a dissolution of marriage, legal separation or annulment, each periodic payment shall be presumed paid and satisfied after the expiration of ten years from the date that periodic payment is due, unless the judgment has been otherwise revived as set out in subsection 1 of this section. This subsection shall take effect as to all such judgments, orders, or decrees which have not been presumed paid pursuant to subsection 1 of this section as of August 28, 2001.

4. In any judgment, order or decree awarding child support or maintenance, payment duly entered on the record as provided in subsection 1 of this section shall include recording of payments or credits in the automated child support system created pursuant to chapter 454 by the division of child support enforcement or payment center pursuant to chapter 454.

5. Any judgment, order, or decree awarding unpaid rent may be revived upon publication consistent with the publication requirements of section 506.160 and need not be personally served on the defendant.

525.040. EFFECT OF NOTICE OF GARNISHMENT — PRIORITY BASED ON DATE OF SERVICE. — **1.** Notice of garnishment, served as provided in sections 525.010 to 525.480 shall have the effect of attaching all personal property, money, rights, credits, bonds, bills, notes, drafts, checks or other choses in action of the defendant in the garnishee's possession or charge, or under his **or her** control at the time of the service of the garnishment, or which may come into his **or her** possession or charge, or under his **or her** control, or be owing by him **or her**, between that time and the time of filing his **or her** answer**, or in the case of a continuous wage garnishment, until the judgment is paid in full or until the employment relationship is terminated, whichever occurs first**; but he **or she** shall not be liable to a judgment in money on account of such bonds, bills, notes, drafts, checks or other choses in action, unless the same shall have been converted into money since the garnishment, or he **or she [**fail**] fails**, in such time as the court may prescribe, to deliver them into court, or to the sheriff or other person designated by the court.

2. Writs of garnishment which would otherwise have equal priority shall have priority according to the date of service on the garnishee. If the employee's wages have been attached by more than one writ of garnishment, the employer shall inform the inferior garnisher of the existence and case number of all senior garnishments.

525.070. GARNISHEE MAY DISCHARGE HIMSELF, HOW. — Whenever any property, effects, money or debts, belonging or owing to the defendant, shall be confessed, or found by the court or jury, to be in the hands of the garnishee, the garnishee may, at any time before final judgment, discharge himself **or herself**, by paying or delivering the same, or so much thereof as the court shall order, to the sheriff **[**or**] ,** to the court, **or if applicable, to the attorney for the party on whose behalf the order of garnishment was issued,** from all further liability on account of the property, money or debts so paid or delivered.

525.080. GARNISHEE TO DELIVER PROPERTY, OR PAY DEBTS, OR MAY GIVE BOND THEREFOR. — 1. If it appear that a garnishee, at or after his or her garnishment, was possessed of any property of the defendant, or was indebted to him **or her**, the court, or judge in vacation, may order the delivery of such property, or the payment of the amount owing by the garnishee, to the sheriff **[**or**] ,** into court, **or to the attorney for the party on whose behalf the order of garnishment was issued,** at such time as the court may direct; or may permit the garnishee to retain the same, upon his or her executing a bond to the plaintiff, with security, approved by the court, to the effect that the property shall be forthcoming, or the amount paid, as the court may direct. Upon a breach of the obligation of such bond, the plaintiff may proceed against the obligors therein, in the manner prescribed in the case of a delivery bond given to the sheriff.

2. Notwithstanding subsection 1 of this section, when property is protected from garnishment by state or federal law including but not limited to federal restrictions on the garnishment of earnings in Title 15, U.S.C. Sections 1671 to 1677 and Old Age, Survivors and Disability Insurance benefits as provided in Title 42, U.S.C. Section 407, such property need not be delivered to the court**, or to any other person,** by the garnishee to the extent such protection or preemption is applicable.

525.230. GARNISHEE IS A FINANCIAL INSTITUTION, ONE-TIME DEDUCTION PERMITTED, WHEN — PROCEDURE. — **[**1. The court shall make the garnishee a reasonable allowance**] The garnishee may deduct a one-time sum not to exceed twenty dollars, or the fee previously agreed upon between the garnishee and judgment debtor if the garnishee is a financial institution,** for his or her trouble and expenses in answering the interrogatories **and withholding the funds**, to be **[**paid out of the funds or proceeds of the property or effects confessed in his or her hands. The reasonable allowances shall include any court costs, attorney's fees and any other bona fide expenses of the garnishee.

2. The court also shall allow the garnishee, in addition to the reasonable allowance for his or her trouble and expenses in answering the interrogatories, to collect an administrative fee consisting of the greater of eight dollars or two percent of the amount required to be deducted by any court-ordered garnishment or series of garnishments arising out of the same judgment debt. Such fee shall be for the trouble and expenses in administering the notice of garnishment and paying over any garnished funds available to the court. The fee shall be withheld by the employer from the employee, or by any other garnishee from any fund garnished, in addition to the moneys withheld to satisfy the court-ordered judgment. Such fee shall not be a credit against the court-ordered judgment and shall be collected first**] withheld from any funds garnished, in addition to the moneys withheld to satisfy the court-ordered judgment. Such fee shall not be a credit against the court-ordered judgment and shall be collected first. The garnishee may file a motion with the court for additional costs, including attorney's fees, reasonably incurred in answering the interrogatories in which case the court may make such award as it deems reasonable. The motion shall be filed on or before the date the garnishee makes payment or delivers property subject to garnishment to the court**.

525.310. COMPENSATION OF STATE AND MUNICIPAL EMPLOYEES SUBJECT TO GARNISHMENT, PROCEDURE. — 1. **[**When a judgment has been rendered against an officer, appointee or employee of the state of Missouri, or any municipal corporation or other political subdivision of the state, the judgment creditor, or his attorney or agent, may file in the office of the clerk of the court before whom the judgment was rendered, an application setting forth such facts, and that the judgment debtor is employed by the state, or a municipal corporation or other political subdivision of the state, with the name of the department of state or the municipal corporation or other political subdivision of the state which employs the judgment debtor, and the name of the treasurer, or the name and title of the paying, disbursing or auditing officer of the state, municipal corporation or other political subdivision of the state, charged with the duty of payment or audit of such salary, wages, fees or earnings of such employee, and upon the filing of such application the clerk shall issue a writ of sequestration directed to the sheriff or other officer authorized to execute writs in the county in which such paying, disbursing or auditing officer may be found and the sheriff or other officer to whom the writ is directed shall serve a true copy thereof upon such paying, disbursing or auditing officer named therein, which shall have the effect of attaching any and all salary, wages, fees or earnings of the judgment debtor, which are not made exempt by virtue of the exemption statutes of this state and are not in excess of the amount due on the judgment and costs, then due and payable, from the date of the writ to the return day thereof.

2. The paying, disbursing or auditing officer charged with the duty of payment or audit of the salary, wages, fees or earnings of the judgment debtor shall deliver to the sheriff or officer serving the writ the amount, not to exceed the amount due upon the judgment and costs, of the salary, wages, fees or earnings of the judgment debtor not made exempt by virtue of the exemption statutes of this state, as the same shall become due to the judgment debtor. The paying, disbursing or auditing officer shall pay to the judgment debtor the remaining portion of his salary, wages, fees or earnings, as the same shall become due to the judgment debtor. The sheriff, or officer serving the writ, shall provide to the paying, disbursing or auditing officer along with the writ sufficient information to compute the amount which shall be delivered to the sheriff or officer serving the writ. Neither the state, municipal corporation or other political subdivision of the state, nor the paying, disbursing or auditing officer shall be liable for the payment of any amount above the amount delivered to the sheriff or officer serving the writ if the computation of the amount delivered is in accordance with the information provided with the writ.

3. The sheriff or officer serving such writ shall endorse thereon the day and date he received the same, and upon receiving any amount in connection with the writ, shall issue his receipt to such paying, disbursing or auditing officer therefor. All amounts delivered to the sheriff, or officer serving said writ, in connection with the writ, or so much thereof as shall be necessary therefor, shall be applied to the payment of the judgment debt, interest and costs in the same manner as in the case of garnishment under execution. The sheriff or other officer serving the writ shall make his return to the writ showing the manner of serving the same, and he shall be allowed the same fees therefor as provided for levy of execution, and the writ shall be returnable in the same manner as the execution issued out of the court in which the judgment was rendered. Nothing in this section shall deprive the judgment debtor of any exemptions to which he may be entitled under the exemption laws of this state, and the same may be claimed by him to the sheriff or other officer serving the writ at any time on or before the return day of the writ in the manner provided under the exemption laws of this state. It shall be the duty of such sheriff or other officer serving the writ, at the time of the service thereof, to apprise the judgment debtor of his exemption rights, either in person or by registered letter directed to the judgment debtor to his last known address.**]** **The state, municipal, or other political subdivision employer served with a garnishment shall have the same duties and obligations as those imposed upon a private employer when served with a garnishment.**

2. Pay of any officer, appointee, or employee of the state of Missouri, or any municipal corporation or other political subdivision of the state, shall be subject to

garnishment to the same extent as in any other garnishment. All garnishments against such employee shall proceed in the same manner as any other garnishment.

3. Service of legal process to which a department, municipal corporation, or other political subdivision of the state is subject under this section may be accomplished by personal service upon the paying, disbursing, or auditing officer of the state, municipal corporation, or other political subdivision of the state, charged with the duty of payment or audit of such salary, wages, fees, or earnings of such employees.

537.602. SUPERVISION OF COMMUNITY SERVICE WORK, IMMUNITY FROM LIABILITY, WHEN — DEFINITIONS — COMMUNITY SERVICE WORK NOT DEEMED EMPLOYMENT AND WORKER NOT AN EMPLOYEE. — 1. As used in this section the following terms shall mean:

(1) "Community service work", any work which is performed without compensation and is required in exchange for deferred prosecution of any criminal charge by any federal, state, or local prosecutor under a written agreement;

(2) "Entity", includes any person, for-profit or not-for-profit business, agency, group, charity, organization, or any unit of federal, state, or local government or any of their employees.

2. Any entity which supervises community service work performed as a requirement for deferment of any criminal charge under a written agreement with a federal, state, or local prosecutor, or any entity which derives benefits from the performance of community service work shall be immune from any suit by the person performing the community service work or by any person deriving a cause of action from the person performing the community service work if that cause of action arises from the supervision of the work performed, except that the entity supervising the work shall not be immune from any suit for gross negligence or for an intentional tort.

3. Community service work shall not be deemed employment within the meaning of the provisions of chapter 288 and a person performing community service work under the provisions of this section shall not be deemed an employee within the meaning of the provisions of chapter 287.

574.160. UNLAWFUL FUNERAL PROTEST, OFFENSE OF — DEFINITIONS — VIOLATION, PENALTY. — 1. A person commits the offense of unlawful funeral protest if he or she pickets or engages in other protest activities within three hundred feet of any residence, cemetery, funeral home, church, synagogue, or other establishment during or within one hour before or one hour after the conducting of any actual funeral or burial service at that place.

2. For purposes of this section, "other protest activities" means any action that is disruptive or undertaken to disrupt or disturb a funeral or burial service.

3. For purposes of this section, "funeral" and "burial service" mean the ceremonies and memorial services held in conjunction with the burial or cremation of the dead, but this section does not apply to processions while they are in transit beyond any three-hundred-foot zone that is established under subsection 1 of this section.

4. The offense of unlawful funeral protest is a class B misdemeanor, unless committed by a person who has previously been found guilty of a violation of this section, in which case it is a class A misdemeanor.

575.153. DISARMING A PEACE OFFICER OR CORRECTIONAL OFFICER — PENALTY. — 1. A person commits the crime of disarming a peace officer, as defined in section **[**590.100**]** **590.010**, or a correctional officer if such person intentionally:

(1) Removes a firearm **[**or other**]** **,** deadly weapon**, or less-lethal weapon, to include blunt impact, chemical or conducted energy devices, used in the performance of his or her official duties** from the person of a peace officer or correctional officer while such officer is acting within the scope of his or her official duties; or

(2) Deprives a peace officer or correctional officer of such officer's use of a firearm **[**or**]** **,** deadly weapon**, or any other equipment described in subdivision (1) of this subsection** while the officer is acting within the scope of his or her official duties.

2. The provisions of this section shall not apply when:

(1) The defendant does not know or could not reasonably have known that the person he or she disarmed was a peace officer or correctional officer; or

(2) The peace officer or correctional officer was engaged in an incident involving felonious conduct by the peace officer or correctional officer at the time the defendant disarmed such officer.

3. Disarming a peace officer or correctional officer is a class C felony.

632.520. OFFENDER COMMITTING VIOLENCE AGAINST AN EMPLOYEE — DEFINITIONS — PENALTY — DAMAGE OF PROPERTY, VIOLATION, PENALTY. — **1. For purposes of this section, the following terms mean:**

(1) "Employee of the department of mental health", a person who is an employee of the department of mental health, an employee or contracted employee of a subcontractor of the department of mental health, or an employee or contracted employee of a subcontractor of an entity responsible for confining offenders as authorized by section 632.495;

(2) "Offender", a person ordered to the department of mental health after a determination by the court that the person meets the definition of a sexually violent predator, a person ordered to the department of mental health after a finding of probable cause under section 632.489, or a person committed for control, care, and treatment by the department of mental health under sections 632.480 to 632.513;

(3) "Secure facility", a facility operated by the department of mental health or an entity responsible for confining offenders as authorized by section 632.495.

2. No offender shall knowingly commit violence to an employee of the department of mental health or to another offender housed in a secure facility. Violation of this subsection shall be a class B felony.

3. No offender shall knowingly damage any building or other property owned or operated by the department of mental health. Violation of this subsection shall be a class C felony.

650.120. GRANTS TO FUND INVESTIGATIONS OF INTERNET SEX CRIMES AGAINST CHILDREN — FUND CREATED — PANEL, MEMBERSHIP, TERMS — LOCAL MATCHING AMOUNTS — PRIORITIES — TRAINING STANDARDS — INFORMATION SHARING — PANEL RECOMMENDATION — POWER OF ARREST — SUNSET PROVISION. — 1. There is hereby created in the state treasury the "Cyber Crime Investigation Fund". The treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180. **[**Beginning with the 2010 fiscal year and in each subsequent fiscal year, the general assembly shall appropriate three million dollars to the cyber crime investigation fund.**]** The department of public safety shall be the administrator of the fund. Moneys in the fund shall be used solely for the administration of the grant program established under this section. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

2. The department of public safety shall create a program to distribute grants to multijurisdictional Internet cyber crime law enforcement task forces, multijurisdictional enforcement groups, as defined in section 195.503, that are investigating Internet sex crimes against children, and other law enforcement agencies. The program shall be funded by the cyber crime investigation fund created under subsection 1 of this section. Not more than three percent

of the money in the fund may be used by the department to pay the administrative costs of the grant program. The grants shall be awarded and used to pay the salaries of detectives and computer forensic personnel whose focus is investigating Internet sex crimes against children, including but not limited to enticement of a child, possession or promotion of child pornography, provide funding for the training of law enforcement personnel and prosecuting and circuit attorneys as well as their assistant prosecuting and circuit attorneys, and purchase necessary equipment, supplies, and services. The funding for such training may be used to cover the travel expenses of those persons participating.

3. A panel is hereby established in the department of public safety to award grants under this program and shall be comprised of the following members:

(1) The director of the department of public safety, or his or her designee;

(2) Two members **[**shall be**]** appointed by the director of the department of public safety from a list of six nominees submitted by the Missouri Police Chiefs Association;

(3) Two members **[**shall be**]** appointed by the director of the department of public safety from a list of six nominees submitted by the Missouri Sheriffs' Association;

(4) Two members of the state highway patrol **[**shall be**]** appointed by the director of the department of public safety from a list of six nominees submitted by the Missouri State Troopers Association;

(5) One member of the house of representatives **[**who shall be**]** appointed by the speaker of the house of representatives; and

(6) One member of the senate **[**who shall be**]** appointed by the president pro tem.

The panel members who are appointed under subdivisions (2), (3), and (4) of this subsection shall serve a four-year term ending four years from the date of expiration of the term for which his or her predecessor was appointed. However, a person appointed to fill a vacancy prior to the expiration of such a term shall be appointed for the remainder of the term. Such members shall hold office for the term of his or her appointment and until a successor is appointed. The members of the panel shall receive no additional compensation but shall be eligible for reimbursement for mileage directly related to the performance of panel duties.

4. Local matching amounts, which may include new or existing funds or in-kind resources including but not limited to equipment or personnel, are required for multijurisdictional Internet cyber crime law enforcement task forces and other law enforcement agencies to receive grants awarded by the panel. Such amounts shall be determined by the state appropriations process or by the panel.

5. When awarding grants, priority should be given to newly hired detectives and computer forensic personnel.

6. The panel shall establish minimum training standards for detectives and computer forensic personnel participating in the grant program established in subsection 2 of this section.

7. Multijurisdictional Internet cyber crime law enforcement task forces and other law enforcement agencies participating in the grant program established in subsection 2 of this section shall share information and cooperate with the highway patrol and with existing Internet crimes against children task force programs.

8. The panel may make recommendations to the general assembly regarding the need for additional resources or appropriations.

9. The power of arrest of any peace officer who is duly authorized as a member of a multijurisdictional Internet cyber crime law enforcement task force shall only be exercised during the time such peace officer is an active member of such task force and only within the scope of the investigation on which the task force is working. Notwithstanding other provisions of law to the contrary, such task force officer shall have the power of arrest, as limited in this subsection, anywhere in the state and shall provide prior notification to the chief of police of a municipality or the sheriff of the county in which the arrest is to take place. If exigent circumstances exist, such arrest may be made and notification shall be made to the chief of police or sheriff as

appropriate and as soon as practical. The chief of police or sheriff may elect to work with the multijurisdictional Internet cyber crime law enforcement task force at his or her option when such task force is operating within the jurisdiction of such chief of police or sheriff.

10. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall **[**sunset automatically six years after June 5, 2006**]** **be reauthorized on August 28, 2014, and shall expire on December 31, 2024**, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall sunset automatically twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

[476.445. DISABILITY RETIREMENT OF SUPREME COURT AND COURT OF APPEALS COMMISSIONERS — HEARING — COMPENSATION. — 1. Any commissioner of the supreme court or commissioner of a court of appeals who is unable to discharge the duties of his office with efficiency by reason of continued sickness or physical or mental infirmity shall be retired from office upon the en banc order of the court appointing him.

2. No order retiring a commissioner shall be entered without the commissioner involved having been given due notice and an opportunity to be heard and without a finding by a majority of the court involved that the commissioner's disability is permanent.

3. Any commissioner retired under the provisions of this section shall receive as compensation during such retirement and until the end of the term for which he was appointed a sum equal to one-half of the regular compensation for that office.

4. Any commissioner retired under the provisions of this section shall not be eligible to be made, constituted and appointed a special commissioner as provided in sections 476.450 to 476.510 (nor to receive the compensation provided therefor by sections 476.450 to 476.510) during the period of his retirement under the provisions of this section but upon the completion of such period he shall be and become eligible to be made, constituted and appointed a special commissioner as provided in sections 476.450 to 476.510 if he be otherwise qualified as to age and length of service.**]**

[477.081. NEW COMMISSIONERS PROHIBITED — PRESENT COMMISSIONERS REAPPOINTED, WHEN. — From January 1, 1972, no new commissioner shall be appointed by the supreme court or the court of appeals. All commissioners serving on January 1, 1972, are eligible for reappointment for additional four-year terms until they reach compulsory retirement age, or die, resign or are removed. Each commissioner shall possess the same qualifications, take and subscribe a like oath, and receive the same compensation payable in the same manner as judges of the court appointing them. The commissioners are subject to the rules and orders of the court appointing them and shall provide such services as the court may require.**]**

[477.082. COMMISSIONERS MAY BE ASSIGNED AS SPECIAL JUDGES. — From January 1, 1972, the commissioners of the supreme court, in addition to their other duties, by order of the supreme court, may be temporarily assigned for the performance of judicial duties as special judges of the supreme court, of any district of the court of appeals, or of any circuit court when their services are required for the prompt and efficient administration of justice. During such temporary assignments, subject to the supervision of the regular judge or judges of the court, the commissioners shall exercise the same powers, duties, and responsibilities as are vested by law in the regular judges of the court to which they are assigned.**]**

[477.152. VACANCY IN OFFICE OF COMMISSIONER, PROCEDURE TO BE FOLLOWED. — Whenever a vacancy occurs after September 3, 1970, in the office of commissioner of the supreme court, a judge shall be appointed in the manner prescribed by sections 25(a)-(g), article V of the Constitution of Missouri to serve on the court of appeals. Appointments under this section shall be made to the districts of the court of appeals in the following order: eastern, western, southern, eastern, western, eastern.**]**

[477.181. ADDITIONAL JUDGE FOR SOUTHERN DISTRICT OF COURT OF APPEALS. — 1. On July 1, 1979, the number of judges of the southern district of the court of appeals shall be increased by one judge.

2. The judge appointed pursuant to the provisions of this section shall be in addition to any other judges appointed to the southern district of the court of appeals pursuant to other provisions of law.**]**

[477.190. JUDGES, TO BE ADDITIONAL. — The judgeships authorized by sections 477.160, 477.170 and 477.180 shall be in addition to those newly authorized after January 1, 1978, by the provisions of section 477.152 or by any other law enacted at or after the second regular session of the seventy-ninth general assembly.**]**

[477.191. ADDITIONAL JUDGES FOR WESTERN DISTRICT OF COURT OF APPEALS. — 1. On January 1, 1979, the western district of the Missouri court of appeals shall be increased by three judges.

2. The judges appointed pursuant to the provisions of this section shall be in addition to any other judges appointed to the western district of the Missouri court of appeals under the provisions of any other law.**]**

[578.501. FUNERAL PROTESTS PROHIBITED, WHEN — CITATION OF LAW — DEFINITIONS. — 1. This section shall be known as "Spc. Edward Lee Myers' Law".

2. It shall be unlawful for any person to engage in picketing or other protest activities in front of or about any location at which a funeral is held, within one hour prior to the commencement of any funeral, and until one hour following the cessation of any funeral. Each day on which a violation occurs shall constitute a separate offense. Violation of this section is a class B misdemeanor, unless committed by a person who has previously pled guilty to or been found guilty of a violation of this section, in which case the violation is a class A misdemeanor.

3. For the purposes of this section, "funeral" means the ceremonies, processions and memorial services held in connection with the burial or cremation of the dead.**]**

[578.502. FUNERAL PROTESTS PROHIBITED, WHEN — FUNERAL DEFINED. — 1. This section shall be known as "Spc. Edward Lee Myers' Law".

2. It shall be unlawful for any person to engage in picketing or other protest activities within three hundred feet of or about any location at which a funeral is held, within one hour prior to the commencement of any funeral, and until one hour following the cessation of any funeral. Each day on which a violation occurs shall constitute a separate offense. Violation of this section is a class B misdemeanor, unless committed by a person who has previously pled guilty to or been found guilty of a violation of this section, in which case the violation is a class A misdemeanor.

3. For purposes of this section, "funeral" means the ceremonies, processions, and memorial services held in connection with the burial or cremation of the dead.**]**

[578.503. CONTINGENT EFFECTIVE DATE. — The enactment of section 578.502 shall become effective only on the date the provisions of section 578.501 are finally

declared void or unconstitutional by a court of competent jurisdiction and upon notification by the attorney general to the revisor of statutes.**]**

SECTION B. DELAYED EFFECTIVE DATE. — The repeal and reenactment of sections 408.040, 488.305, 525.040, 525.070, 525.080, 525.230, and 525.310 of this act shall become effective on January 15, 2015.

SECTION C. EMERGENCY CLAUSE. — Because of the necessity of constitutionally protected expedient access to the courts and ensuring the continued efficient administration of justice, the repeal and reenactment of sections 478.320, 478.437, 478.464, 478.513, and 478.600, and the enactment of section 478.740 of this act are deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution and the repeal and reenactment of sections 478.320, 478.437, 478.464, 478.513, and 478.600, and the enactment of section 478.740 of this act shall be in full force and effect upon its passage and approval.

Approved July 8, 2014

HB 1237 [HCS HB 1237]

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

Extends allocation of income tax revenues from nonresident entertainers and athletes until December 31, 2020

AN ACT to repeal section 143.183, RSMo, and to enact in lieu thereof one new section relating to nonresident entertainer income taxes.

SECTION

A. Enacting clause.
143.183. Professional athletes and entertainers, state income tax revenues from nonresidents — transfers to Missouri arts council trust fund, Missouri humanities council trust fund, Missouri state library networking fund, Missouri public television broadcasting corporation special fund and Missouri historic preservation revolving fund.

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

SECTION A. ENACTING CLAUSE. — Section 143.183, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 143.183, to read as follows:

143.183. PROFESSIONAL ATHLETES AND ENTERTAINERS, STATE INCOME TAX REVENUES FROM NONRESIDENTS — TRANSFERS TO MISSOURI ARTS COUNCIL TRUST FUND, MISSOURI HUMANITIES COUNCIL TRUST FUND, MISSOURI STATE LIBRARY NETWORKING FUND, MISSOURI PUBLIC TELEVISION BROADCASTING CORPORATION SPECIAL FUND AND MISSOURI HISTORIC PRESERVATION REVOLVING FUND. — 1. As used in this section, the following terms mean:

(1) "Nonresident entertainer", a person residing or registered as a corporation outside this state who, for compensation, performs any vocal, instrumental, musical, comedy, dramatic, dance or other performance in this state before a live audience and any other person traveling with and performing services on behalf of a nonresident entertainer, including a nonresident entertainer who is paid compensation for providing entertainment as an independent contractor, a partnership that is paid compensation for entertainment provided by nonresident entertainers, a

corporation that is paid compensation for entertainment provided by nonresident entertainers, or any other entity that is paid compensation for entertainment provided by nonresident entertainers;

(2) "Nonresident member of a professional athletic team", a professional athletic team member who resides outside this state, including any active player, any player on the disabled list if such player is in uniform on the day of the game at the site of the game, and any other person traveling with and performing services on behalf of a professional athletic team;

(3) "Personal service income" includes exhibition and regular season salaries and wages, guaranteed payments, strike benefits, deferred payments, severance pay, bonuses, and any other type of compensation paid to the nonresident entertainer or nonresident member of a professional athletic team, but does not include prizes, bonuses or incentive money received from competition in a livestock, equine or rodeo performance, exhibition or show;

(4) "Professional athletic team" includes, but is not limited to, any professional baseball, basketball, football, soccer and hockey team.

2. Any person, venue, or entity who pays compensation to a nonresident entertainer shall deduct and withhold from such compensation as a prepayment of tax an amount equal to two percent of the total compensation if the amount of compensation is in excess of three hundred dollars paid to the nonresident entertainer. For purposes of this section, the term "person, venue, or entity who pays compensation" shall not be construed to include any person, venue, or entity that is exempt from taxation under 26 U.S.C. Section 501(c)(3), as amended, and that pays an amount to the nonresident entertainer for the entertainer's appearance but receives no benefit from the entertainer's appearance other than the entertainer's performance.

3. Any person, venue, or entity required to deduct and withhold tax pursuant to subsection 2 of this section shall, for each calendar quarter, on or before the last day of the month following the close of such calendar quarter, remit the taxes withheld in such form or return as prescribed by the director of revenue and pay over to the director of revenue or to a depository designated by the director of revenue the taxes so required to be deducted and withheld.

4. Any person, venue, or entity subject to this section shall be considered an employer for purposes of section 143.191, and shall be subject to all penalties, interest, and additions to tax provided in this chapter for failure to comply with this section.

5. Notwithstanding other provisions of this chapter to the contrary, the commissioner of administration, for all taxable years beginning on or after January 1, 1999, but none after December 31, **[**2015**]** **2020**, shall annually estimate the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of **[**sixteen**]** **twenty-one** years, sixty percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri arts council trust fund, and shall be transferred**, subject to appropriations,** from the general revenue fund to the Missouri arts council trust fund established in section 185.100 and any amount transferred shall be in addition to such agency's budget base for each fiscal year. The director shall by rule establish the method of determining the portion of personal service income of such persons that is allocable to Missouri.

6. Notwithstanding the provisions of sections 186.050 to 186.067 to the contrary, the commissioner of administration, for all taxable years beginning on or after January 1, 1999, but for none after December 31, **[**2015**]** **2020**, shall estimate annually the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of **[**sixteen**]** **twenty-one** years, ten percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri humanities council trust fund, and shall be transferred**, subject to appropriations,** from the general revenue fund to the Missouri humanities council trust fund established in section 186.055 and any amount transferred shall be in addition to such agency's budget base for each fiscal year.

7. Notwithstanding other provisions of section 182.812 to the contrary, the commissioner of administration, for all taxable years beginning on or after January 1, 1999, but for none after December 31, **[**2015**]** **2020**, shall estimate annually the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of **[**sixteen**]** **twenty-one** years, ten percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri state library networking fund, and shall be transferred**, subject to appropriations,** from the general revenue fund to the secretary of state for distribution to public libraries for acquisition of library materials as established in section 182.812 and any amount transferred shall be in addition to such agency's budget base for each fiscal year.

8. Notwithstanding other provisions of section 185.200 to the contrary, the commissioner of administration, for all taxable years beginning on or after January 1, 1999, but for none after December 31, **[**2015**]** **2020**, shall estimate annually the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of **[**sixteen**]** **twenty-one** years, ten percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri public television broadcasting corporation special fund, and shall be transferred**, subject to appropriations,** from the general revenue fund to the Missouri public television broadcasting corporation special fund, and any amount transferred shall be in addition to such agency's budget base for each fiscal year; provided, however, that twenty-five percent of such allocation shall be used for grants to public radio stations which were qualified by the corporation for public broadcasting as of November 1, 1996. Such grants shall be distributed to each of such public radio stations in this state after receipt of the station's certification of operating and programming expenses for the prior fiscal year. Certification shall consist of the most recent fiscal year financial statement submitted by a station to the corporation for public broadcasting. The grants shall be divided into two categories, an annual basic service grant and an operating grant. The basic service grant shall be equal to thirty-five percent of the total amount and shall be divided equally among the public radio stations receiving grants. The remaining amount shall be distributed as an operating grant to the stations on the basis of the proportion that the total operating expenses of the individual station in the prior fiscal year bears to the aggregate total of operating expenses for the same fiscal year for all Missouri public radio stations which are receiving grants.

9. Notwithstanding other provisions of section 253.402 to the contrary, the commissioner of administration, for all taxable years beginning on or after January 1, 1999, but for none after December 31, **[**2015**]** **2020**, shall estimate annually the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of **[**sixteen**]** **twenty-one** years, ten percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri department of natural resources Missouri historic preservation revolving fund, and shall be transferred**, subject to appropriations,** from the general revenue fund to the Missouri department of natural resources Missouri historic preservation revolving fund established in section 253.402 and any amount transferred shall be in addition to such agency's budget base for each fiscal year. **[**As authorized pursuant to subsection 2 of section 30.953, it is the intention and desire of the general assembly that the state treasurer convey, to the Missouri investment trust on January 1, 1999, up to one hundred percent of the balances of the Missouri arts council trust fund established pursuant to section 185.100 and the Missouri humanities council trust fund established pursuant to section 186.055. The funds shall be reconveyed to the state treasurer by the investment trust as follows: the Missouri arts council

trust fund, no earlier than January 2, 2009; and the Missouri humanities council trust fund, no earlier than January 2, 2009.**]**

10. This section shall not be construed to apply to any person who makes a presentation for professional or technical education purposes or to apply to any presentation that is part of a seminar, conference, convention, school, or similar program format designed to provide professional or technical education.

Approved June 20, 2014

HB 1238 [SCS HB 1238]

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

Changes the laws regarding court costs

AN ACT to repeal sections 488.012, 488.426, and 488.607, RSMo, and to enact in lieu thereof five new sections relating to court costs.

SECTION

A. Enacting clause.
488.012. Clerk to collect — supreme court to set amount — amount prior to adjustment.
488.426. Deposit required in civil actions — exemptions — surcharge to remain in effect — additional fee for adoption and small claims court (Franklin County) — expiration date.
488.607. Additional surcharges authorized for municipal and associate circuit courts for cities and towns having shelters for victims of domestic violence, amount, exceptions.
488.2206. Circuit No. 37, additional surcharge for a county or municipal judicial facility.
488.2235. Additional court costs, used for municipal court house (Kansas City).

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

SECTION A. ENACTING CLAUSE. — Sections 488.012, 488.426, and 488.607, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 488.012, 488.426, 488.607, 488.2206, and 488.2235, to read as follows:

488.012. CLERK TO COLLECT — SUPREME COURT TO SET AMOUNT — AMOUNT PRIOR TO ADJUSTMENT. — 1. Beginning July 1, 1997, the clerk of each court of this state responsible for collecting court costs shall collect the court costs authorized by statute, in such amounts as are authorized by supreme court rule adopted pursuant to sections 488.010 to 488.020. Court costs due and payable prior to July 1, 1997, shall not be affected by the adoption of this rule.

2. The supreme court shall set the amount of court costs authorized by statute, at levels to produce revenue which shall not substantially exceed the total of the proportion of the costs associated with administration of the judicial system defrayed by fees, miscellaneous charges and surcharges.

3. Prior to adjustment by the supreme court, the following fees, costs and charges shall be collected:

(1) Five dollars for the filing of a lien, pursuant to section 429.090;

(2) Ten dollars for maintaining child support enforcement records, pursuant to section 452.345;

(3) Ten dollars for a notice to a judgment creditor of a distributee, pursuant to section 473.618;

(4) Three dollars for receiving and keeping a will, pursuant to section 474.510;

(5) Seven dollars for the statewide court automation fund, pursuant to section **[**476.053**]** **488.027**;

(6) Twelve dollars for municipal court costs, fifteen dollars for municipal ordinance violations filed before an associate circuit judge and thirty dollars for applications for a trial de novo of a municipal ordinance violation, pursuant to section 479.260;

(7) Five dollars for small claims court cases where less than one hundred dollars is in dispute, and ten dollars in all other small claims court cases, pursuant to section 482.345;

(8) Fifty dollars for appeals, pursuant to section 483.500;

(9) Fifteen dollars in misdemeanor cases where there is no application for trial de novo, pursuant to section 483.530;

(10) Forty-five dollars for applications for a trial de novo for misdemeanor cases, pursuant to section 483.530;

(11) Fifteen dollars for each preliminary hearing in felony cases, pursuant to section 483.530;

(12) Thirty dollars for each information or indictment filed in felony cases, pursuant to section 483.530;

(13) Fifteen dollars for each associate circuit court case filed, and one dollar for each additional summons issued in such cases, pursuant to section 483.530;

(14) Forty-five dollars for applications for trial de novo from small claims court and associate circuit court and forty-five dollars for filing of other cases, pursuant to section 483.530;

(15) One dollar and fifty cents for a certificate of naturalization, pursuant to section 483.535;

(16) When letters are applied for in probate proceedings, pursuant to section 483.580, when the value of the estate is:

(a) Less than $10,000. . . . . $ 75.00
(b) From $10,000 to $25,000. . . . . 115.00
(c) From $25,000 to $50,000. . . . . 155.00
(d) From $50,000 to $100,000 . . . . . 245.00
(e) From $100,000 to $500,000. . . . . 305.00
(f) More than $500,000. . . . . 365.00;

(17) Thirty dollars for each additional twelve months a decedent's estate remains open, pursuant to section 483.580;

(18) In proceedings regarding guardianships and conservatorships, pursuant to section 483.580:

(a) Twenty-five dollars for each grant of letters for guardianship of a minor;

(b) Fifty dollars for each grant of letters for guardianship of an incapacitated person;

(c) Sixty dollars for each grant of letters for guardianship of the person and conservatorship of the estate of a minor;

(d) Twenty-five dollars for each additional twelve months a conservatorship of a minor's estate case remains open;

(e) Seventy-five dollars for each grant of letters in guardianship and conservatorship of incapacitated persons and their estates;

(f) Thirty dollars for each additional twelve months an incapacitated person's case remains open;

(19) Fifteen dollars for issuing orders refusing to grant letters to a spouse or an unmarried minor child and thirty dollars for a certified copy of such orders, pursuant to section 483.580;

(20) In probate proceedings, pursuant to section 483.580:

(a) Thirty-five dollars for the collection of small estates;

(b) Thirty-five dollars for involuntary hospitalization proceedings;

(c) Thirty dollars for proceedings to determine heirship;

(d) Fifteen dollars for assessment of estate taxes where no letters are granted;

(e) Fifty dollars for proceedings for the sale of real estate by a nonresident conservator;

(f) Forty dollars for proceedings to dispense with administration;

(g) Twenty dollars for proceedings to dispense with conservatorship;

(h) Twenty-five dollars for admitting a will to probate;

(i) One dollar per copied page and one dollar and fifty cents per certificate;

(21) One dollar and fifty cents per page for testimony transcription, pursuant to section **[**485.100**]** **488.2250**;

(22) Fifteen dollars for court reporters, pursuant to section **[**485.120**]** **488.2253**;

(23) Three dollars for witness fees per day, and four dollars when the witness must travel to another county, pursuant to section 491.280.

488.426. DEPOSIT REQUIRED IN CIVIL ACTIONS — EXEMPTIONS — SURCHARGE TO REMAIN IN EFFECT — ADDITIONAL FEE FOR ADOPTION AND SMALL CLAIMS COURT (FRANKLIN COUNTY) — EXPIRATION DATE. — 1. The judges of the circuit court, en banc, in any circuit in this state may require any party filing a civil case in the circuit court, at the time of filing the suit, to deposit with the clerk of the court a surcharge in addition to all other deposits required by law or court rule. Sections 488.426 to 488.432 shall not apply to proceedings when costs are waived or are to be paid by the county or state or any city.

2. The surcharge in effect on August 28, 2001, shall remain in effect until changed by the circuit court. The circuit court in any circuit, except the circuit court in Jackson County or the circuit court in any circuit that reimburses the state for the salaries of family court commissioners under and pursuant to section 487.020, may change the fee to any amount not to exceed fifteen dollars. The circuit court in Jackson County or the circuit court in any circuit that reimburses the state for the salaries of family court commissioners under and pursuant to section 487.020 may change the fee to any amount not to exceed twenty dollars. A change in the fee shall become effective and remain in effect until further changed.

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

4. In addition to any fee authorized by subsection 1 of this section, any county of the first classification with more than **[**ninety-three thousand eight hundred but less than ninety-three thousand nine hundred inhabitants**]** **one hundred one thousand but fewer than one hundred fifteen thousand inhabitants** may impose an additional fee of ten dollars excluding cases concerning adoption and those in small claims court. The provisions of this subsection shall expire on December 31, **[**2014**]** **2019**.

488.607. ADDITIONAL SURCHARGES AUTHORIZED FOR MUNICIPAL AND ASSOCIATE CIRCUIT COURTS FOR CITIES AND TOWNS HAVING SHELTERS FOR VICTIMS OF DOMESTIC VIOLENCE, AMOUNT, EXCEPTIONS. — The governing body of any county or any city having a shelter for victims of domestic violence established pursuant to sections 455.200 to 455.230, 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 in another county, may, by order or ordinance provide for an additional surcharge in **[**the**]** **an** amount of **[**two**]** **up to four** dollars per case for each criminal case, including violations of any county or municipal ordinance. 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 sections 488.010 to 488.020. Such fees shall be payable to the city or county wherein such fees originated. The county or city shall use such moneys only for the purpose of providing operating expenses for shelters for battered persons as defined in sections 455.200 to 455.230.

488.2206. CIRCUIT NO. 37, ADDITIONAL SURCHARGE FOR A COUNTY OR MUNICIPAL JUDICIAL FACILITY. — **1. In addition to all court fees and costs prescribed by law, a**

surcharge of up to ten dollars shall be assessed as costs in each court proceeding filed in any court within the thirty-first judicial circuit in all criminal cases including violations of any county or municipal ordinance or any violation of a criminal or traffic law of the state, including an infraction, except that no such surcharge 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 order, ordinance, or resolution by the county government where the violation occurred. For violations of municipal ordinances, no such surcharge shall be collected unless it is authorized, by order, ordinance, or resolution by the municipal government where the violation occurred. Such surcharges shall be collected and disbursed by the clerk of each respective court responsible for collecting court costs in the manner provided by sections 488.010 to 488.020, and shall be payable to the treasurer of the political subdivision authorizing such surcharge.

2. Each county or municipality shall use all funds received pursuant to this section only to pay for the costs associated with the land assemblage and purchase, construction, maintenance, and operation of any county or municipal judicial facility including, but not limited to, debt service, utilities, maintenance, and building security. The county or municipality shall maintain records identifying such operating costs, and any moneys not needed for the operating costs of the county or municipal judicial facility shall be transmitted quarterly to the general revenue fund of the county or municipality respectively.

488.2235. ADDITIONAL COURT COSTS, USED FOR MUNICIPAL COURT HOUSE (KANSAS CITY). — 1. In addition to all other court costs for municipal ordinance violations, any home rule city with more than four hundred thousand inhabitants and located in more than one county may provide for additional court costs in an amount up to five dollars per case for each municipal ordinance violation case filed before a municipal division judge or associate circuit judge.

2. The judge may waive the assessment of the cost in those cases where the defendant is found by the judge to be indigent and unable to pay the costs.

3. Such cost shall be collected by the clerk and disbursed to the city at least monthly. The city shall use such additional costs only for the restoration, maintenance and upkeep of the municipal courthouse. The costs collected may be pledged to directly or indirectly secure bonds for the cost of restoration, maintenance and upkeep of the courthouse.

4. The provisions of this section shall expire August 28, 2021.

Approved July 8, 2014

HB 1245 [HB 1245]

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

Eliminates multiple versions of certain statutes

AN ACT to repeal section 208.275 as enacted by senate substitute for senate committee substitute for house committee substitute for house bill no. 555 merged with senate substitute no. 2 for house bill no. 648, ninety-sixth general assembly, first regular session and section 208.275 as enacted by senate committee substitute for house committee substitute for house bill no. 464, ninety-sixth general assembly, first regular session, and

section 301.580 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 1402, ninety-sixth general assembly, second regular session, and section 301.3166 as enacted by conference committee substitute for house committee substitute no. 2 for senate committee substitute for senate bill no. 480, ninety-sixth general assembly, second regular session, and section 301.3168 as enacted by conference committee substitute for house committee substitute no. 2 for senate committee substitute for senate bill no. 480, ninety-sixth general assembly, second regular session, and section 301.3170 as enacted by conference committee substitute for house committee substitute no. 2 for senate committee substitute for senate bill no. 480, ninety-sixth general assembly, second regular session, and section 350.016 as enacted by house committee substitute for senate bill no. 84, eighty-seventh general assembly, first regular session, and section 390.280 as enacted by conference committee substitute for house committee substitute for senate substitute for senate committee substitute for senate bill no. 470, ninety-sixth general assembly, second regular session, and section 407.300 as enacted by conference committee substitute for senate committee substitute for house bill no. 103, ninety-seventh general assembly, first regular session, and section 476.055 as enacted by conference committee substitute for house committee substitute for senate bill no. 636, ninety-sixth general assembly, second regular session, for the sole purpose of repealing multiple versions of statutes.

SECTION

A. Enacting clause.
208.275. Coordinating council on special transportation, creation — members, qualifications, appointment, terms, expenses — staff — powers — duties.
208.275. Coordinating council on special transportation, creation — members, qualifications, appointment, terms, expenses — staff — powers — duties.
301.580. Special event motor vehicle auction license, requirements, fee — corporate surety bond required — rulemaking authority.
301.3166. National Wild Turkey Federation special license plate, application, fee.
301.3168. PROUD SUPPORTER (American Red Cross) special license plate, application, fee.
301.3170. National Rifle Association special license plate, application, fee.
350.016. Restriction on corporate farming, exceptions, certain counties engaging in production of swine.
390.280. Certificates issued prior to January 1, 1995, void, when — certificate owners qualified as registered property carriers, when — hazardous materials, transportation of, effect of law upon — geographic restriction void, when.
407.300. Copper wire or cable, catalytic converters, collectors and dealers to keep register, information required — penalty — exempt transactions.
476.055. Statewide court automation fund created, administration, committee, members — powers, duties, limitation — unauthorized release of information, penalty — report — expiration date.

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

SECTION A. ENACTING CLAUSE. — Section 208.275 as enacted by senate substitute for senate committee substitute for house committee substitute for house bill no. 555 merged with senate substitute no. 2 for house bill no. 648, ninety-sixth general assembly, first regular session and section 208.275 as enacted by senate committee substitute for house committee substitute for house bill no. 464, ninety-sixth general assembly, first regular session, and section 301.580 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 1402, ninety-sixth general assembly, second regular session, and section 301.3166 as enacted by conference committee substitute for house committee substitute no. 2 for senate committee substitute for senate bill no. 480, ninety-sixth general assembly, second regular session, and section 301.3168 as enacted by conference committee substitute for house committee substitute no. 2 for senate committee substitute for senate bill no. 480, ninety-sixth general assembly, second regular session, and section 301.3170 as enacted by conference committee substitute for house committee substitute no. 2 for senate committee substitute for senate bill no. 480, ninety-sixth general assembly, second regular

session, and section 350.016 as enacted by house committee substitute for senate bill no. 84, eighty-seventh general assembly, first regular session, and section 390.280 as enacted by conference committee substitute for house committee substitute for senate substitute for senate committee substitute for senate bill no. 470, ninety-sixth general assembly, second regular session, and section 407.300 as enacted by conference committee substitute for senate committee substitute for house bill no. 103, ninety-seventh general assembly, first regular session, and section 476.055 as enacted by conference committee substitute for house committee substitute for senate bill no. 636, ninety-sixth general assembly, second regular session, RSMo, are repealed as follows:

[208.275. COORDINATING COUNCIL ON SPECIAL TRANSPORTATION, CREATION — MEMBERS, QUALIFICATIONS, APPOINTMENT, TERMS, EXPENSES — STAFF — POWERS — DUTIES. — 1. As used in this section, unless the context otherwise indicates, the following terms mean:

(1) "Elderly", any person who is sixty years of age or older;

(2) "Person with a disability", any person having a physical or mental condition, either permanent or temporary, which would substantially impair ability to operate or utilize available transportation.

2. There is hereby created the "Coordinating Council on Special Transportation" within the Missouri department of transportation. The members of the council shall be: two members of the senate appointed by the president pro tem, who shall be from different political parties; two members of the house of representatives appointed by the speaker, who shall be from different political parties; the assistant for transportation of the Missouri department of transportation, or his designee; the assistant commissioner of the department of elementary and secondary education, responsible for special transportation, or his designee; the director of the division of aging of the department of social services, or his designee; the deputy director for developmental disabilities and the deputy director for administration of the department of mental health, or their designees; the executive secretary of the governor's committee on the employment of the persons with a disability; and seven consumer representatives appointed by the governor by and with the advice and consent of the senate, four of the consumer representatives shall represent the elderly and three shall represent persons with a disability. Two of such three members representing persons with a disability shall represent those with physical disabilities. Consumer representatives appointed by the governor shall serve for terms of three years or until a successor is appointed and qualified. Of the members first selected, two shall be selected for a term of three years, two shall be selected for a term of two years, and three shall be selected for a term of one year. In the event of the death or resignation of any member, his successor shall be appointed to serve for the unexpired period of the term for which such member had been appointed.

3. State agency personnel shall serve on the council without additional appropriations or compensation. The consumer representatives shall serve without compensation except for receiving reimbursement for the reasonable and necessary expenses incurred in the performance of their duties on the council from funds appropriated to the department of transportation. Legislative members shall be reimbursed by their respective appointing bodies out of the contingency fund for such body for necessary expenses incurred in the performance of their duties.

4. Staff for the council shall be provided by the Missouri department of transportation. The department shall designate a special transportation coordinator who shall have had experience in the area of special transportation, as well as such other staff as needed to enable the council to perform its duties.

5. The council shall meet at least quarterly each year and shall elect from its members a chairman and a vice chairman.

6. The coordinating council on special transportation shall:

(1) Recommend and periodically review policies for the coordinated planning and delivery of special transportation when appropriate;

(2) Identify special transportation needs and recommend agency funding allocations and resources to meet these needs when appropriate;

(3) Identify legal and administrative barriers to effective service delivery;

(4) Review agency methods for distributing funds within the state and make recommendations when appropriate;

(5) Review agency funding criteria and make recommendations when appropriate;

(6) Review area transportation plans and make recommendations for plan format and content;

(7) Establish measurable objectives for the delivery of transportation services;

(8) Review annual performance data and make recommendations for improved service delivery, operating procedures or funding when appropriate;

(9) Review local disputes and conflicts on special transportation and recommend solutions.**]**

[208.275. COORDINATING COUNCIL ON SPECIAL TRANSPORTATION, CREATION — MEMBERS, QUALIFICATIONS, APPOINTMENT, TERMS, EXPENSES — STAFF — POWERS — DUTIES. — 1. As used in this section, unless the context otherwise indicates, the following terms mean:

(1) "Elderly", any person who is sixty years of age or older;

(2) "Handicapped", any person having a physical or mental condition, either permanent or temporary, which would substantially impair ability to operate or utilize available transportation.

2. There is hereby created the "Coordinating Council on Special Transportation" within the Missouri department of transportation. The members of the council shall be: the assistant for transportation of the Missouri department of transportation, or his designee; the assistant commissioner of the department of elementary and secondary education, responsible for special transportation, or his designee; the director of the division of aging of the department of social services, or his designee; the deputy director for mental retardation/developmental disabilities and the deputy director for administration of the department of mental health, or their designees; the executive secretary of the governor's committee on the employment of the handicapped; and seven consumer representatives appointed by the governor by and with the advice and consent of the senate, four of the consumer representatives shall represent the elderly and three shall represent the handicapped. Two of such three members representing handicapped persons shall represent those with physical handicaps. Consumer representatives appointed by the governor shall serve for terms of three years or until a successor is appointed and qualified. Of the members first selected, two shall be selected for a term of three years, two shall be selected for a term of two years, and three shall be selected for a term of one year. In the event of the death or resignation of any member, his successor shall be appointed to serve for the unexpired period of the term for which such member had been appointed.

3. State agency personnel shall serve on the council without additional appropriations or compensation. The consumer representatives shall serve without compensation except for receiving reimbursement for the reasonable and necessary expenses incurred in the performance of their duties on the council from funds appropriated to the department of transportation.

4. Staff for the council shall be provided by the Missouri department of transportation. The department shall designate a special transportation coordinator who shall have had experience in the area of special transportation, as well as such other staff as needed to enable the council to perform its duties.

5. The council shall meet at least quarterly each year and shall elect from its members a chairman and a vice chairman.

6. The coordinating council on special transportation shall:

(1) Recommend and periodically review policies for the coordinated planning and delivery of special transportation when appropriate;

(2) Identify special transportation needs and recommend agency funding allocations and resources to meet these needs when appropriate;

(3) Identify legal and administrative barriers to effective service delivery;

(4) Review agency methods for distributing funds within the state and make recommendations when appropriate;

(5) Review agency funding criteria and make recommendations when appropriate;

(6) Review area transportation plans and make recommendations for plan format and content;

(7) Establish measurable objectives for the delivery of transportation services;

(8) Review annual performance data and make recommendations for improved service delivery, operating procedures or funding when appropriate;

(9) Review local disputes and conflicts on special transportation and recommend solutions.

7. The provisions of this section shall expire on December 31, 2014.**]**

[301.580. SPECIAL EVENT MOTOR VEHICLE AUCTION LICENSE, REQUIREMENTS, FEE — CORPORATE SURETY BOND REQUIRED — RULEMAKING AUTHORITY. — 1. The department of revenue may issue special event motor vehicle auction licenses under the provisions of this section. For purposes of this section, a "special event motor vehicle auction" is a motor vehicle auction which:

(1) Ninety percent of the vehicles being auctioned are at least ten years old or older;

(2) The licensee shall auction no more than three percent of the total number of vehicles presented for auction which are owned and titled in the name of the licensee or its owners; and

(3) The duration is no more than three consecutive calendar days and is held no more than two times in a calendar year by a licensee.

2. A special event motor vehicle auction shall be considered a public motor vehicle auction for purposes of sections 301.559 and 301.564.

3. Special event motor vehicle auction licensees shall be exempt from the requirements of section 301.560, with the exception of subdivision (4) of subsection 1 of section 301.560.

4. An application for a special event motor vehicle auction license must be received by the department at least ninety days prior to the beginning of the special event auction.

5. Applicants for a special motor vehicle auction are limited to no more than two special event auctions in any calendar year. A separate application is required for each special event motor vehicle auction.

6. At least ninety percent of the vehicles being auctioned at a special event motor vehicle auction shall be ten years old or older. The licensee shall, within ten days of the conclusion of a special event motor vehicle auction, submit a report in the form approved by the director to the department that includes the make, model, year, and

vehicle identification number of each vehicle included in the auction. Every vehicle included in the special event auction shall be listed, including those vehicles that were auctioned and sold and those vehicles that were auctioned but did not sell. Violation of this subsection is a class A misdemeanor.

7. The applicant for the special event motor vehicle auction shall be responsible for ensuring that a sales tax license or special event sales tax license is obtained for the event if one is required.

8. The fee for a special event motor vehicle auction license shall be one thousand dollars. For every vehicle auctioned in violation of subsection 6 of this section, an administrative fee of five hundred dollars shall be paid to the department. Such fees shall be deposited in like manner as other license fees of this section.

9. In addition to the causes set forth in section 301.562, the department may promulgate rules that establish additional causes to refuse to issue or to revoke a special event license.

10. A special motor vehicle auction shall last no more than three consecutive days.

11. The applicant for a special event motor vehicle auction shall be registered to conduct business in this state.

12. Every applicant for a special event motor vehicle auction license shall furnish with the application a corporate surety bond or an irrevocable letter of credit as defined in section 400.5-102 issued by any state or federal financial institution in the penal sum of one hundred thousand dollars on a form approved by the department. The bond or irrevocable letter of credit shall be conditioned upon the applicant complying with the provisions of the statutes applicable to a special event auction license holder and the bond shall be an indemnity for any loss sustained by reason of the acts of the person bonded when such acts constitute grounds for the revocation or denial of a special event auction license. The bond shall be executed in the name of the state of Missouri for the benefit of all aggrieved parties or the irrevocable letter of credit shall name the state of Missouri as the beneficiary. The aggregate liability of the surety or financial institution to the aggrieved parties shall not exceed the amount of the bond or irrevocable letter of credit. The proceeds of the bond or irrevocable letter of credit shall be paid upon receipt by the department of a final judgment from a Missouri court of competent jurisdiction against the principal and in favor of an aggrieved party.

13. No dealer, driveaway, auction, or wholesale plates, or temporary permit booklets, shall be issued in conjunction with a special event motor vehicle auction license.

14. Any person or entity who sells a vehicle at a special event motor vehicle auction shall provide, to the buyer, current contact information including, but not limited to, name, address, and telephone number.

15. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2012, shall be invalid and void.**]**

[301.3166. NATIONAL WILD TURKEY FEDERATION SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Notwithstanding any other provision of law, any member of the National Wild Turkey Federation, after an annual payment of an emblem-use fee to the National Wild Turkey Federation, may receive personalized specialty license

plates for any vehicle the member owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. The National Wild Turkey Federation hereby authorizes the use of its official emblem to be affixed on multiyear personalized specialty license plates as provided in this section. Any contribution to the National Wild Turkey Federation derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the National Wild Turkey Federation. Any member of the National Wild Turkey Federation may annually apply for the use of the emblem.

2. Upon annual application and payment of a fifteen dollar emblem-use contribution to the National Wild Turkey Federation, the National Wild Turkey Federation shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the vehicle owner to the director of revenue at the time of registration. Upon presentation of the annual emblem-use authorization statement and payment of a fifteen dollar fee in addition to the regular registration fees, and presentation of any documents which may be required by law, the director of revenue shall issue to the vehicle owner a personalized specialty license plate which shall bear the emblem of the National Wild Turkey Federation. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, and prescribed by section 301.130. In addition, upon each set of license plates shall be inscribed, in lieu of the words "SHOW-ME STATE", the words "National Wild Turkey Federation". Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalized specialty plates issued under this section.

3. A vehicle owner who was previously issued a plate with the National Wild Turkey Federation's emblem authorized by this section, but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the National Wild Turkey Federation's emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms required by this section.

4. Prior to the issuance of a National Wild Turkey Federation specialty plate authorized under this section, the department of revenue must be in receipt of an application, as prescribed by the director, which shall be accompanied by a list of at least two hundred potential applicants who plan to purchase the specialty plate, the proposed art design for the specialty license plate, and an application fee, not to exceed five thousand dollars, to defray the department's cost for issuing, developing, and programming the implementation of the specialty plate. Once the plate design is approved, the director of revenue shall not authorize the manufacture of the material to produce such personalized specialty license plates with the individual seal, logo, or emblem until such time as the director has received two hundred applications, the fifteen dollar specialty plate fee per application, and emblem-use statements, if applicable, and other required documents or fees for such plates.**]**

[301.3168. PROUD SUPPORTER (AMERICAN RED CROSS) SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Notwithstanding any other provision of law to the contrary, any person, after an annual payment of an emblem-use fee to the American Red Cross Trust Fund, may receive specialty personalized license plates for any vehicle the member owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. The Missouri Chapter of the American Red Cross hereby authorizes the use of its official emblem to be affixed on specialty license plates within the plate area

prescribed by the director of revenue and as provided in this section. Any contribution to the American Red Cross derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the American Red Cross. Any person may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the American Red Cross Trust Fund, the Missouri Chapter of the American Red Cross shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the vehicle owner to the director of revenue at the time of registration. Upon presentation of the annual emblem-use authorization statement and payment of a twenty-five dollar fee in addition to the regular registration fees, and presentation of any documents which may be required by law, the director of revenue shall issue to the vehicle owner a specialty personalized license plate which shall bear the emblem of the Missouri Chapter of the American Red Cross, and the words "PROUD SUPPORTER" at the bottom of the plate, in a manner prescribed by the director of revenue. Such license plates shall be made with fully reflective material with a common color scheme and design of the standard license plate, shall be clearly visible at night, shall have a reflective white background in the area of the plate configuration, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates issued under this section.

3. A vehicle owner who was previously issued a plate with the Missouri Chapter of the American Red Cross' emblem authorized by this section, but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Missouri Chapter of the American Red Cross' emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms required by this section.

4. Prior to the issuance of a Missouri Chapter of the American Red Cross specialty personalized plate authorized under this section, the department of revenue must be in receipt of an application, as prescribed by the director, which shall be accompanied by a list of at least two hundred potential applicants who plan to purchase the specialty personalized plate, the proposed art design for the specialty license plate, and an application fee, not to exceed five thousand dollars, to defray the department's cost for issuing, developing, and programming the implementation of the specialty plate. Once the plate design is approved, the director of revenue shall not authorize the manufacture of the material to produce such specialized license plates with the individual seal, logo, or emblem until such time as the director has received two hundred applications, the fifteen dollar specialty plate fee per application, and emblem-use statements, if applicable, and other required documents or fees for such plates.

5. The specialty personalized plate shall not be redesigned unless the organization pays the director in advance for all redesigned plate fees for the plate established in this section. If a member chooses to replace the specialty personalized plate for the new design the member must pay the replacement fees prescribed in section 301.300 for the replacement of the existing specialty personalized plate. All other applicable license plate fees in accordance with this chapter shall be required.**]**

[301.3170. NATIONAL RIFLE ASSOCIATION SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any member of the National Rifle Association, after an annual payment of an emblem-use authorization fee to the National Rifle Association, may receive special license plates for any vehicle the member owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle

licensed in excess of eighteen thousand pounds gross weight. The National Rifle Association hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates within the plate area prescribed by the director of revenue and as provided in this section. Any contribution to the National Rifle Association derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the National Rifle Association. Any member of the National Rifle Association may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the National Rifle Association, that organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the vehicle owner to the director of revenue at the time of registration. Upon presentation of the annual statement and payment of a fifteen dollar fee in addition to the regular registration fees, and presentation of any documents which may be required by law, the director of revenue shall issue to the vehicle owner a special license plate which shall bear the emblem of the National Rifle Association and the words "National Rifle Association" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design of the standard license plate, shall be clearly visible at night, shall have a reflective white background in the area of the plate configuration, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner who was previously issued a plate with the National Rifle Association emblem authorized by this section, but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the organization's emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms required by this section.**]**

[350.016. RESTRICTION ON CORPORATE FARMING, EXCEPTIONS, CERTAIN COUNTIES ENGAGING IN PRODUCTION OF SWINE. — The restrictions set forth in section 350.015 shall not apply to agricultural land in counties located north of the Missouri River and west of the Chariton River and having a population of more than three thousand five hundred and less than seven thousand inhabitants which border at least two other counties having a population of more than three thousand five hundred and less than seven thousand inhabitants which is used by a corporation or limited partnership for the production of swine or swine products.**]**

[390.280. CERTIFICATES ISSUED PRIOR TO JANUARY 1, 1995, VOID, WHEN — CERTIFICATE OWNERS QUALIFIED AS REGISTERED PROPERTY CARRIERS, WHEN — HAZARDOUS MATERIALS, TRANSPORTATION OF, EFFECT OF LAW UPON — GEOGRAPHIC RESTRICTION VOID, WHEN. — 1. Certificates or permits, or both, which were issued before January 1, 1995, and which authorized a person to transport any property in intrastate commerce by motor vehicle as a common carrier or contract carrier, or both, are void, except that to the extent such certificates or permits, or portions thereof, authorized a person to transport household goods over irregular routes or passengers in intrastate commerce, or any property or passengers in interstate commerce, those certificates or permits, or portions thereof, are exempt from the provisions of this subsection.

2. Persons who owned certificates or permits, or both, that were in active status with the division on December 31, 1994, and persons to whom the division issued certificates and permits after December 31, 1994, pursuant to emergency rules adopted

by the division, are deemed to be qualified as registered property carriers, unless the person's certificate or permit has been suspended, revoked or transferred to another person as provided by law. A person deemed qualified pursuant to this subsection is not required to file an application pursuant to section 390.290 to continue providing intrastate transportation as a registered property carrier, but rather, upon such person's compliance with the licensing and insurance requirements of the division the person is deemed to have a property carrier registration in force as required pursuant to section 390.270, authorizing the person to transport property except household goods in intrastate commerce on the public highways, unless the person's property carrier registration is suspended, revoked or transferred to another person as provided by law. Within a reasonable time after August 28, 1996, the division shall issue property carrier registrations to all persons who are deemed to be qualified as registered property carriers and deemed to have property carrier registrations in force pursuant to this subsection.

3. Notwithstanding any provision of this section to the contrary, this section shall not be construed as authorizing any person to transport any hazardous material as designated in Title 49, Code of Federal Regulations, except hazardous materials which that person was expressly authorized to transport in intrastate commerce within this state on August 28, 1996. A person may file an application for property carrier registration pursuant to section 390.290 to transport additional hazardous materials. Nothing in this section shall be construed to conflict with chapter 260, or of relieving an applicant of any duty to obtain a license pursuant to chapter 260.

4. Notwithstanding any provision of the law, any geographic restriction or provision limiting the carrier's scope of authority to particular routes within this state contained in a certificate or permit, or both, authorizing the transportation of household goods in intrastate commerce, which was issued prior to August 28, 2012, and any similar provision contained in a carrier's tariff schedule filed prior to such date, shall be deemed void. In lieu of the geographic restrictions expressed in such certificates, permits, or tariff schedules, a motor carrier shall be authorized to provide intrastate transportation of household goods between all points and destinations within the state until such time the certificates, permits, and tariff schedules are reissued or amended to reflect the motor carrier's statewide operating authority. Nothing contained in the provisions of sections 390.051 to 390.116 shall be construed to exempt or to alter the obligation of compliance by carriers transporting passengers point-to-point within the jurisdiction described in 67.1802 from the provisions of sections 67.1800 to 67.1822.**]**

[407.300. COPPER WIRE OR CABLE, CATALYTIC CONVERTERS, COLLECTORS AND DEALERS TO KEEP REGISTER, INFORMATION REQUIRED — PENALTY — EXEMPT TRANSACTIONS. — 1. Every purchaser or collector of, or dealer in, junk, scrap metal, or any secondhand property shall keep a register containing a written or electronic record for each purchase or trade in which each type of metal subject to the provisions of this section is obtained for value. There shall be a separate record for each transaction involving any:

(1) Copper, brass, or bronze;

(2) Aluminum wire, cable, pipe, tubing, bar, ingot, rod, fitting, or fastener;

(3) Material containing copper or aluminum that is knowingly used for farming purposes as farming is defined in section 350.010; or

(4) Catalytic converter;

whatever may be the condition or length of such metal. The record shall contain the following data: a copy of the driver's license or photo identification issued by the state or by the United States government or agency thereof to the person from whom the

material is obtained, which shall contain a current address of the person from whom the material is obtained, and the date, time, and place of and a full description of each such purchase or trade including the quantity by weight thereof.

2. The records required under this section shall be maintained for a minimum of twenty-four months from when such material is obtained and shall be available for inspection by any law enforcement officer.

3. Anyone convicted of violating this section shall be guilty of a class A misdemeanor.

4. This section shall not apply to any of the following transactions:

(1) Any transaction for which the total amount paid for all regulated scrap metal purchased or sold does not exceed fifty dollars, unless the scrap metal is a catalytic converter;

(2) Any transaction for which the seller, including a farm or farmer, has an existing business relationship with the scrap metal dealer and is known to the scrap metal dealer making the purchase to be an established business or political subdivision that operates a business with a fixed location that can be reasonably expected to generate regulated scrap metal and can be reasonably identified as such a business; or

(3) Any transaction for which the type of metal subject to subsection 1 of this section is a minor part of a larger item, except for equipment used in the generation and transmission of electrical power or telecommunications.**]**

[476.055. STATEWIDE COURT AUTOMATION FUND CREATED, ADMINISTRATION, COMMITTEE, MEMBERS — POWERS, DUTIES, LIMITATION — UNAUTHORIZED RELEASE OF INFORMATION, PENALTY — REPORT — EXPIRATION DATE. — 1. There is hereby established in the state treasury the "Statewide Court Automation Fund". All moneys collected pursuant to section 488.027, as well as gifts, contributions, devises, bequests, and grants received relating to automation of judicial record keeping, and moneys received by the judicial system for the dissemination of information and sales of publications developed relating to automation of judicial record keeping, shall be credited to the fund. Moneys credited to this fund may only be used for the purposes set forth in this section and as appropriated by the general assembly. Any unexpended balance remaining in the statewide court automation fund at the end of each biennium shall not be subject to the provisions of section 33.080 requiring the transfer of such unexpended balance to general revenue; except that, any unexpended balance remaining in the fund on September 1, 2015, shall be transferred to general revenue.

2. The statewide court automation fund shall be administered by a court automation committee consisting of the following: the chief justice of the supreme court, a judge from the court of appeals, four circuit judges, four associate circuit judges, four employees of the circuit court, the commissioner of administration, two members of the house of representatives appointed by the speaker of the house, two members of the senate appointed by the president pro tem of the senate and two members of the Missouri Bar. The judge members and employee members shall be appointed by the chief justice. The commissioner of administration shall serve ex officio. The members of the Missouri Bar shall be appointed by the board of governors of the Missouri Bar. Any member of the committee may designate another person to serve on the committee in place of the committee member.

3. The committee shall develop and implement a plan for a statewide court automation system. The committee shall have the authority to hire consultants, review systems in other jurisdictions and purchase goods and services to administer the provisions of this section. The committee may implement one or more pilot projects in the state for the purposes of determining the feasibility of developing and

implementing such plan. The members of the committee shall be reimbursed from the court automation fund for their actual expenses in performing their official duties on the committee.

4. Any purchase of computer software or computer hardware that exceeds five thousand dollars shall be made pursuant to the requirements of the office of administration for lowest and best bid. Such bids shall be subject to acceptance by the office of administration. The court automation committee shall determine the specifications for such bids.

5. The court automation committee shall not require any circuit court to change any operating system in such court, unless the committee provides all necessary personnel, funds and equipment necessary to effectuate the required changes. No judicial circuit or county may be reimbursed for any costs incurred pursuant to this subsection unless such judicial circuit or county has the approval of the court automation committee prior to incurring the specific cost.

6. Any court automation system, including any pilot project, shall be implemented, operated and maintained in accordance with strict standards for the security and privacy of confidential judicial records. Any person who knowingly releases information from a confidential judicial record is guilty of a class B misdemeanor. Any person who, knowing that a judicial record is confidential, uses information from such confidential record for financial gain is guilty of a class D felony.

7. On the first day of February, May, August and November of each year, the court automation committee shall file a report on the progress of the statewide automation system with the joint legislative committee on court automation. Such committee shall consist of the following:

(1) The chair of the house budget committee;

(2) The chair of the senate appropriations committee;

(3) The chair of the house judiciary committee;

(4) The chair of the senate judiciary committee;

(5) One member of the minority party of the house appointed by the speaker of the house of representatives; and

(6) One member of the minority party of the senate appointed by the president pro tempore of the senate.

8. The members of the joint legislative committee shall be reimbursed from the court automation fund for their actual expenses incurred in the performance of their official duties as members of the joint legislative committee on court automation.

9. Section 488.027 shall expire on September 1, 2015. The court automation committee established pursuant to this section may continue to function until completion of its duties prescribed by this section, but shall complete its duties prior to September 1, 2017.

10. This section shall expire on September 1, 2017.**]**

Approved June 23, 2014

HB 1270 [SS SCS HB 1270]

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

Requires specified disclosures on new credit card processing service contracts

AN ACT to amend chapter 407, RSMo, by adding thereto one new section relating to credit card processing services.

SECTION
A. Enacting clause.
407.1400. Processing services agreements, required disclosures — inapplicability, when.

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

SECTION A. ENACTING CLAUSE. — Chapter 407, RSMo, is amended by adding thereto one new section, to be known as section 407.1400, to read as follows:

407.1400. PROCESSING SERVICES AGREEMENTS, REQUIRED DISCLOSURES — INAPPLICABILITY, WHEN. — 1. Any person or entity that offers a credit card processing service in this state shall disclose the following information on any contract or agreement to render a credit card processing service:

(1) The effective date of the contract;

(2) The term of the contract;

(3) The amount of any monthly minimum fee or charge for the credit card processing service; and

(4) The amount of any fee or charge for terminating the contract or agreement.

2. The disclosures required in subsection 1 of this section and any other terms and conditions pertaining to the use of the credit card processing service shall be printed in eight-point font at a minimum.

3. Nothing in this section shall limit the rights or remedies that are otherwise available to a person or an entity that has contracted with a credit card processing service.

4. The obligations of this section are cumulative and do not limit the obligations imposed under any other state or federal law.

5. The provisions of this section shall not apply to:

(1) A state bank or a state savings association that offers a credit card processing service or is a party to a contract that offers a credit card processing service; or

(2) A national bank or a national savings association that offers a credit card processing service or a party to a contract that offers a credit card processing service in connection with a national bank or national savings association; or

(3) The parent, affiliate, or subsidiary of any bank or savings association that offers a credit card processing service; or

(4) A credit union that offers a credit card processing service or is a party to a contract that offers a credit card processing service; or

(5) The parent, affiliate, or subsidiary of any credit union that offers a credit card processing service; or

(6) A trade or business organization or association that offers a credit card processing service or is a party to a contract that offers a credit card processing service.

6. The provisions of this section shall only apply to new contracts entered into after August 28, 2014.

Approved June 27, 2014

HB 1298 [HCS HRB 1298]

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

Revision Bill

AN ACT to repeal sections 8.305, 21.485, 21.800, 21.801, 21.910, 82.291, 105.915, 143.811, 160.254, 160.534, 160.932, 160.933, 168.081, 168.083, 171.033, 191.115, 192.105, 196.1035, 197.291, 208.955, 262.950, 301.129, 311.489, 374.776, 376.825, 376.826, 376.827, 376.830, 376.833, 376.836, 383.250, 393.171, 407.485, 443.805, 488.2205, 542.301, 620.602, 630.461, 633.410, 640.850, 650.120, 660.425, 660.430, 660.435, 660.440, 660.445, 660.450, 660.455, 660.460, 660.465, 701.058, and 701.502, RSMo, and to enact in lieu thereof eleven new sections for the sole purpose of repealing expired, ineffective, and obsolete statutory provisions, with a penalty provision.

SECTION

A. Enacting clause.
105.915. Board to administer plan — written agreement required — immunity from liability, when — automatic designation of surviving spouse as primary beneficiary, when.
143.811. Interest on overpayment.
160.254. General assembly joint committee on education created — appointment, meetings, chairman, quorum, duties, expenses.
160.534. Excursion gambling boat proceeds, transfer to classroom trust fund.
168.081. Teaching or acting as school administrator without certificate prohibited.
171.033. Make-up of days lost or cancelled, number required — exemption, when — waiver for schools in session twelve months of year, granted when.
196.1035. Judicial review of director's decision not to list — compliance agreement required — rulemaking authority — funds created.
208.955. Committee established, members, duties — issuance of findings — subcommittee designated, duties, members.
407.485. Unwanted household items, collection of deemed unfair business practice, when — receptacles, requirements.
443.805. License required to broker residential mortgage.
542.301. Disposition of unclaimed seized property — forfeiture to the state, when — allegedly obscene matter, how treated — appeal authorized.
8.305. Appliances purchased shall be energy star under federal program — exemptions, when — expiration date.
21.485. Study on governance in urban school districts — report.
21.800. Joint committee on terrorism, bioterrorism, and homeland security established, members, duties, meetings, expenses, report — expires, when.
21.801. Committee created, members, meetings — report, content — subcommittee created — expiration.
21.910. Committee created, members, duties — report — expiration.
82.291. Derelict vehicle, removal as a nuisance (Hazelwood) — definition, procedure — termination date.
160.932. Pilot program for a part-time child-find coordinator (St. Louis).
160.933. Program fund created, use of moneys — rulemaking authority.
168.083. Temporary administrator certificate granted, when — mentoring program developed — expiration date.
191.115. Alzheimer's State Plan Task Force established, members, duties, meetings, report — expiration date.
192.105. Water quality testing system, feasibility of — report.
197.291. Technical advisory committee on quality of patient care and nursing practices established, members, appointment, duties.
262.950. Board created, definitions, members, mission, duties — report — meetings — expiration date.
301.129. Advisory committee, duties, members, public meetings, expenses, dissolution of committee.
311.489. Permit for sales at specified festival events, issued when — promotional association defined — procedure — permit holder responsible for any alcohol violations, civil fine — expires, when (Kansas City).
374.776. Study on licensure and policies of bail bond industry, hearings, report.
376.825. Title.
376.826. Definitions.
376.827. Requirements for mental illness coverage — parity with coverage provided for physical conditions.
376.830. Services administered and delivered by whom — contracted services permitted, when.
376.833. Inapplicability of section 376.827, when — waiver granted to policyholder, when.
376.836. Effective date — study conducted by director, contents, report to general assembly — exclusions — expiration date.
383.250. Health care stabilization fund feasibility board created, duties, report — members — appointment, meetings, reports — powers — staff — compensation — expiration date.
393.171. Incorporation and franchises, permission and approval after instruction and acquisition of plant permitted, when — expiration date.
488.2205. 30th judicial circuit to collect surcharge, when — use of funds — expiration.
620.602. Joint committee on policy and planning, established — members, appointment of, expenses — meetings, officers, duties — expiration date.
630.461. Review committee for purchasing established, duties — members, qualifications — recommendations due when, failure to recommend, effect — committee disbanded, January 1, 1996.

633.410. Definitions — provider certification fee required, formula — fund created, use of moneys — rulemaking authority.
640.850. Committee to be convened, purpose, report.
650.120. Grants to fund investigations of internet sex crimes against children — fund created — panel, membership, terms — local matching amounts — priorities — training standards — information sharing — panel recommendation — power of arrest — sunset provision.
660.425. Home services providers tax imposed, definitions.
660.430. Amount of tax, formula — rulemaking authority — appeals.
660.435. List of vendors to be provided — record-keeping requirements — report of total payments.
660.440. Effective date of tax.
660.445. Determination of tax amount — notification to provider — quarterly tax adjustments permitted.
660.450. Offset of tax permitted, when.
660.455. Remittance of tax — fund created — record-keeping requirements.
660.460. Notification of taxes due — unpaid or delinquent amounts, effect of — failure to pay, penalty.
660.465. Expiration date.
701.058. Stakeholder meetings, permits and inspections of systems — report.
701.502. Study to be conducted — report, contents.

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

SECTION A. ENACTING CLAUSE. — Sections 8.305, 21.485, 21.800, 21.801, 21.910, 82.291, 105.915, 143.811, 160.254, 160.534, 160.932, 160.933, 168.081, 168.083, 171.033, 191.115, 192.105, 196.1035, 197.291, 208.955, 262.950, 301.129, 311.489, 374.776, 376.825, 376.826, 376.827, 376.830, 376.833, 376.836, 383.250, 393.171, 407.485, 443.805, 488.2205, 542.301, 620.602, 630.461, 633.410, 640.850, 650.120, 660.425, 660.430, 660.435, 660.440, 660.445, 660.450, 660.455, 660.460, 660.465, 701.058, and 701.502, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 105.915, 143.811, 160.254, 160.534, 168.081, 171.033, 196.1035, 208.955, 407.485, 443.805, and 542.301, to read as follows:

EXPLANATION: The two ex officio members' terms have expired.

105.915. BOARD TO ADMINISTER PLAN — WRITTEN AGREEMENT REQUIRED — IMMUNITY FROM LIABILITY, WHEN — AUTOMATIC DESIGNATION OF SURVIVING SPOUSE AS PRIMARY BENEFICIARY, WHEN. — 1. The board of trustees of the Missouri state employees' retirement system shall administer the deferred compensation fund for the employees of the state of Missouri that was previously administered by the deferred compensation commission, as established in section 105.910, prior to August 28, 2007. The board shall be vested with the same powers that it has under chapter 104 to enable it and its officers, employees, and agents to administer the fund under sections 105.900 to 105.927. **[**Two of the commissioners serving on the deferred compensation commission immediately prior to the transfer made to the board under section 105.910 shall serve as ex officio members of the board solely to participate in the duties of administering the deferred compensation fund. One such commissioner serving as an ex officio board member shall be a member of the house of representatives selected by the speaker of the house of representatives, and such commissioner's service on the board shall cease on December 31, 2009. The other commissioner serving as an ex officio board member shall be the chairman of the deferred compensation commission immediately prior to the transfer made to the board under section 105.910, and such commissioner's service on the board shall cease December 31, 2008.**]**

2. Except as provided in this subsection, participation in such plan shall be by a specific written agreement between state employees and the state, which shall provide for the deferral of such amounts of compensation as requested by the employee subject to any limitations imposed under federal law. Participating employees must authorize that such deferrals be made from their wages for the purpose of participation in such program. An election to defer compensation shall be made before the beginning of the month in which the compensation is paid. Contributions shall be made for payroll periods occurring on or after the first day of the month after the election

is made. Each employee eligible to participate in the plan hired on or after July 1, 2012, shall be enrolled in the plan automatically and his or her employer shall, in accordance with the plan document, withhold and contribute to the plan an amount equal to one percent of eligible compensation received on and after the date of hire, unless the employee elects not to participate in the plan within the first thirty days of employment, and in that event, any amounts contributed and earnings thereon will be refunded by the plan to the employee pursuant to the procedure contained in the plan documents. Employees who are employed by a state college or university shall not be automatically enrolled but may elect to participate in the plan and make contributions in accordance with the terms of the plan. Employees who are enrolled automatically may elect to change the contribution rate in accordance with the terms of the plan. Employees who elect not to participate in the plan may at a later date elect to participate in the plan and make contributions in accordance with the terms of the plan. All assets and income of such fund shall be held in trust by the board for the exclusive benefit of participants and their beneficiaries. Assets of such trust, and the trust established pursuant to section 105.927, may be pooled solely for investment management purposes with assets of the trust established under section 104.320.

3. Notwithstanding any other provision of sections 105.900 to 105.927, funds held for the state by the board in accordance with written deferred compensation agreements between the state and participating employees may be invested in such investments as are deemed appropriate by the board. All administrative costs of the program described in this section, including staffing and overhead expenses, may be paid out of assets of the fund, which may reduce the amount due participants in the fund. Such investments shall not be construed to be a prohibited use of the general assets of the state.

4. Investments offered under the deferred compensation fund for the employees of the state of Missouri shall be made available at the discretion of the board.

5. The board and employees of the Missouri state employees' retirement system shall be immune from suit and shall not be subject to any claim or liability associated with any administrative actions or decisions made by the commission with regard to the deferred compensation program prior to the transfer made to the board under section 105.910.

6. The board and employees of the system shall not be liable for the investment decisions made or not made by participating employees as long as the board acts with the same skill, prudence, and diligence in the selection and monitoring of providers of investment products, education, advice, or any default investment option, under the circumstances then prevailing that a prudent person acting in a similar capacity and familiar with those matters would use in the conduct of a similar enterprise with similar aims.

7. The system shall be immune from suit and shall not be subject to any claim or liability associated with the administration of the deferred compensation fund by the board and employees of the system.

8. Beginning on or after September 1, 2011, if a participant under the deferred compensation plan or the plan established under section 105.927 is married on the date of his or her death, the participant's surviving spouse shall be automatically designated as the primary beneficiary under both plans, unless the surviving spouse consented in writing, witnessed by a notary public, to allow the participant to designate a nonspouse beneficiary. As used in this subsection, "surviving spouse" means the spouse as defined pursuant to section 104.012 to whom the participant is lawfully married on the date of death of the participant, provided that a former spouse shall be treated as the surviving spouse of the participant to the extent provided under a judgment, decree, or order that relates to child support, alimony payments, or marital property rights made under Missouri domestic relations law that creates or recognizes the existence of such former spouse's right to receive all or a portion expressed as a stated dollar amount or specific percentage stated in integers of the benefits payable from such plan upon the death of the participant. This subsection shall not apply to beneficiary designations made prior to September 1, 2011.

9. The board may adopt and amend plan documents to change the terms and conditions of the deferred compensation plan and the plan established under section 105.927 that are consistent with federal law.

EXPLANATION: A portion of subsection 7 of this section applied to a transfer of moneys for FY2003.

143.811. INTEREST ON OVERPAYMENT. — 1. Under regulations prescribed by the director of revenue, interest shall be allowed and paid at the rate determined by section 32.065 on any overpayment in respect of the tax imposed by sections 143.011 to 143.996; except that, where the overpayment resulted from the filing of an amendment of the tax by the taxpayer after the last day prescribed for the filing of the return, interest shall be allowed and paid at the rate of six percent per annum. With respect to the part of an overpayment attributable to a deposit made pursuant to subsection 2 of section 143.631, interest shall be paid thereon at the rate in section 32.065 from the date of the deposit to the date of refund. No interest shall be allowed or paid if the amount thereof is less than one dollar.

2. For purposes of this section:

(1) Any return filed before the last day prescribed for the filing thereof shall be considered as filed on such last day determined without regard to any extension of time granted the taxpayer;

(2) Any tax paid by the taxpayer before the last day prescribed for its payment, any income tax withheld from the taxpayer during any calendar year, and any amount paid by the taxpayer as estimated income tax for a taxable year shall be deemed to have been paid by him on the fifteenth day of the fourth month following the close of his taxable year to which such amount constitutes a credit or payment.

3. For purposes of this section with respect to any withholding tax:

(1) If a return for any period ending with or within a calendar year is filed before April fifteenth of the succeeding calendar year, such return shall be considered filed April fifteenth of such succeeding calendar year; and

(2) If a tax with respect to remuneration paid during any period ending with or within a calendar year is paid before April fifteenth of the succeeding calendar year, such tax shall be considered paid on April fifteenth of such succeeding calendar year.

4. If any overpayment of tax imposed by sections 143.061 and 143.071 is refunded within four months after the last date prescribed (or permitted by extension of time) for filing the return of such tax or within four months after the return was filed, whichever is later, no interest shall be allowed under this section on overpayment.

5. If any overpayment of tax imposed by sections 143.011 and 143.041 is refunded within ninety days after the last date prescribed or permitted by extension of time for filing the return of such tax, no interest shall be allowed under this section on overpayment.

6. Any overpayment resulting from a carryback, including a net operating loss and a corporate capital loss, shall be deemed not to have been made prior to the close of the taxable year in which the loss arises.

7. Any overpayment resulting from a carryback of a tax credit, including but not limited to the tax credits provided in sections 253.557 and 348.432, shall be deemed not to have been made prior to the close of the taxable year in which the tax credit was authorized. **[**In fiscal year 2003, the commissioner of administration shall estimate the amount of any additional state revenue received pursuant to the provisions of this subsection and shall transfer an equivalent amount of general revenue to the schools of the future fund created in section 163.005.**]**

EXPLANATION: The authority for an interim committee under subsection 5 expired 01-29-10 (report submitted by deadline).

160.254. GENERAL ASSEMBLY JOINT COMMITTEE ON EDUCATION CREATED — APPOINTMENT, MEETINGS, CHAIRMAN, QUORUM, DUTIES, EXPENSES. — 1. There is hereby

established a joint committee of the general assembly, which shall be known as the "Joint Committee on Education", which shall be composed of seven members of the senate and seven members of the house of representatives. The senate members of the committee shall be appointed by the president pro tem of the senate and the house members by the speaker of the house.

2. The committee shall meet at least twice a year. In the event of three consecutive absences on the part of any member, such member may be removed from the committee.

3. The committee shall select either a chairman or cochairmen, one of whom shall be a member of the senate and one a member of the house. A majority of the members shall constitute a quorum. Meetings of the committee may be called at such time and place as the chairman or chairmen designate.

4. The committee shall:

(1) Review and monitor the progress of education in the state's public schools and institutions of higher education;

(2) Receive reports from the commissioner of education concerning the public schools and from the commissioner of higher education concerning institutions of higher education;

(3) Conduct a study and analysis of the public school system;

(4) Make recommendations to the general assembly for legislative action;

(5) Conduct an in-depth study concerning all issues relating to the equity and adequacy of the distribution of state school aid, teachers' salaries, funding for school buildings, and overall funding levels for schools and any other education funding-related issues the committee deems relevant;

(6) Monitor the establishment of performance measures as required by section 173.1006 and report on their establishment to the governor and the general assembly;

(7) Conduct studies and analysis regarding:

(a) The higher education system, including financing public higher education and the provision of financial aid for higher education; and

(b) The feasibility of including students enrolled in proprietary schools, as that term is defined in section 173.600, in all state-based financial aid programs;

(8) Annually review the collection of information under section 173.093 to facilitate a more accurate comparison of the actual costs at public and private higher education institutions;

(9) Within three years of August 28, 2007, review a new model for the funding of public higher education institutions upon submission of such model by the coordinating board for higher education;

(10) Within three years of August 28, 2007, review the impact of the higher education student funding act established in sections 173.1000 to 173.1006;

(11) Beginning August 28, 2008, upon review, approve or deny any expenditures made by the commissioner of education pursuant to section 160.530, as provided in subsection 5 of section 160.530.

5. **[**During the legislative interim between the first regular session of the ninety-fifth general assembly through January 29, 2010, of the second regular session of the ninety-fifth general assembly, the joint committee on education shall study the issue of open enrollment for public school students across school district boundary lines in this state. In studying this issue, the joint committee may solicit input and information necessary to fulfill its obligation, including but not limited to soliciting input and information from any state department, state agency, school district, political subdivisions of this state, teachers, and the general public. The joint committee shall prepare a final report, together with its recommendations for any legislative action deemed necessary for submission to the general assembly by December 31, 2009.

6.**]** The committee may make reasonable requests for staff assistance from the research and appropriations staffs of the house and senate and the committee on legislative research, as well as the department of elementary and secondary education, the department of higher education, the coordinating board for higher education, the state tax commission, the department of

economic development, all school districts and other political subdivisions of this state, teachers and teacher groups, business and other commercial interests and any other interested persons.

[7.**] 6.** Members of the committee shall receive no compensation but may be reimbursed for reasonable and necessary expenses associated with the performance of their official duties.

EXPLANATION: Subsection 2 expired 07-01-10 and subsection 3 expired 07-01-09.

160.534. EXCURSION GAMBLING BOAT PROCEEDS, TRANSFER TO CLASSROOM TRUST FUND. — **[**1.**]** For fiscal year 1996 and each subsequent fiscal year, any amount of the excursion gambling boat proceeds deposited in the gaming proceeds for education fund in excess of the amount transferred to the school district bond fund as provided in section 164.303 shall be transferred to the classroom trust fund. Such moneys shall be distributed in the manner provided in section 163.043.

[2. Starting in fiscal year 2009, and for each subsequent fiscal year, all excursion gambling boat proceeds deposited in the gaming proceeds for education fund in excess of the amount transferred to the classroom trust fund for fiscal year 2008 plus the amount appropriated to the school district bond fund in accordance with section 164.303 shall be deposited into the schools first elementary and secondary education improvement fund. The provisions of this subsection shall terminate on July 1, 2010.

3. The amounts deposited in the schools first elementary and secondary education improvement fund pursuant to this section shall constitute new and additional funding for elementary and secondary education and shall not be used to replace existing funding provided for elementary and secondary education. The provisions of this subsection shall terminate on July 1, 2009.**]**

EXPLANATION: This section contains an intersectional reference for a Section 168.083 which is repealed in this act.

168.081. TEACHING OR ACTING AS SCHOOL ADMINISTRATOR WITHOUT CERTIFICATE PROHIBITED. — After September 1, 1988, no person without a valid Missouri certificate shall:

(1) Engage in the practice of teaching or the performance of education duties in grades kindergarten through twelve in any public school in the state;

(2) Act as a school administrator in any public school district**[**, unless such person obtains a temporary administrator certificate pursuant to section 168.083**]**.

EXPLANATION: Subsection 3 of this section applies only to a past school year.

171.033. MAKE-UP OF DAYS LOST OR CANCELLED, NUMBER REQUIRED — EXEMPTION, WHEN — WAIVER FOR SCHOOLS IN SESSION TWELVE MONTHS OF YEAR, GRANTED WHEN. — 1. "Inclement weather", for purposes of this section, shall be defined as ice, snow, extreme cold, flooding, or a tornado, but such term shall not include excessive heat.

2. A district shall be required to make up the first six days of school lost or cancelled due to inclement weather and half the number of days lost or cancelled in excess of six days if the makeup of the days is necessary to ensure that the district's students will attend a minimum of one hundred forty-two days and a minimum of one thousand forty-four hours for the school year except as otherwise provided in this section. Schools with a four-day school week may schedule such make-up days on Fridays.

3. **[**In the 2008-09 school year a school district may be exempt from the requirement to make up days of school lost or cancelled due to inclement weather in the school district when the school district has made up the six days required under subsection 2 of this section and half the number of additional lost or cancelled days up to eight days, resulting in no more than ten total make-up days required by this section.

4.] In the 2009-10 school year and subsequent years, a school district may be exempt from the requirement to make up days of school lost or cancelled due to inclement weather in the school district when the school district has made up the six days required under subsection 2 of this section and half the number of additional lost or cancelled days up to eight days, resulting in no more than ten total make-up days required by this section.

[5.] **4.** The commissioner of education may provide, for any school district in which schools are in session for twelve months of each calendar year that cannot meet the minimum school calendar requirement of at least one hundred seventy-four days for schools with a five-day school week or one hundred forty-two days for schools with a four-day school week and one thousand forty-four hours of actual pupil attendance, upon request, a waiver to be excused from such requirement. This waiver shall be requested from the commissioner of education and may be granted if the school was closed due to circumstances beyond school district control, including inclement weather, flooding or fire.

EXPLANATION: Subsection 3 of this section applies only to calendar year 2010.

196.1035. JUDICIAL REVIEW OF DIRECTOR'S DECISION NOT TO LIST — COMPLIANCE AGREEMENT REQUIRED — RULEMAKING AUTHORITY — FUNDS CREATED. — 1. A determination of the director not to list, or to remove from the directory, a brand family or tobacco product manufacturer shall be subject to review by a court of competent jurisdiction.

2. No person shall be issued, or granted a renewal of, a license under chapter 149 unless such person has certified, in writing and under the penalty of perjury, that such person will comply fully with sections 196.1020 to 196.1035.

3. [For the calendar year 2010, if the effective date of sections 196.1020 to 196.1035 is later than March 16, 2010:

(1) The first report of stamping agents required in subsection 1 of section 196.1029 shall be due thirty calendar days after July 7, 2010;

(2) The certification by a tobacco product manufacturer described in subsection 1 of section 196.1023 shall be due forty-five calendar days after July 7, 2010; and

(3) The directory described in subsection 2 of section 196.1023 shall be published, or made available, within one hundred thirty-five calendar days after July 7, 2010.

4.] The director may promulgate rules necessary to effect the purpose of sections 196.1020 to 196.1035. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

[5.] **4.** There is hereby created in the state treasury the "Tobacco Control Special Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180. Upon appropriation, money in the fund shall be used solely for the administration of this section. Any moneys remaining in the fund at the end of the biennium shall revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

[6.] **5.** If a court of competent jurisdiction determines that a person has violated sections 196.1020 to 196.1035, such court shall order any profits, gains, gross receipts, or other benefits from such violation be disgorged and paid to the state treasurer for deposit in the "Tobacco Control Special Fund" **which is hereby created**. Unless otherwise expressly provided, the remedies or penalties provided by sections 196.1020 to 196.1035 are cumulative to each other and to the remedies or penalties available under all other laws of this state.

[7.**]** **6.** If a court of competent jurisdiction finds that the provisions of sections 196.1003 and 196.1020 to 196.1035 conflict and cannot be harmonized, the provisions of section 196.1003 shall control. If any section or portion of a section in sections 196.1020 to 196.1035 causes section 196.1003 to no longer constitute a qualifying or model statute, as those terms are defined in the master settlement agreement, that portion of sections 196.1020 to 196.1035 shall be invalid.

EXPLANATION: The subcommittee and reports required under subsections 3 to 7 of this section terminated 07-01-12.

208.955. COMMITTEE ESTABLISHED, MEMBERS, DUTIES — ISSUANCE OF FINDINGS — SUBCOMMITTEE DESIGNATED, DUTIES, MEMBERS. — 1. There is hereby established in the department of social services the "MO HealthNet Oversight Committee", which shall be appointed by January 1, 2008, and shall consist of nineteen members as follows:

(1) Two members of the house of representatives, one from each party, appointed by the speaker of the house of representatives and the minority floor leader of the house of representatives;

(2) Two members of the Senate, one from each party, appointed by the president pro tem of the senate and the minority floor leader of the senate;

(3) One consumer representative who has no financial interest in the health care industry and who has not been an employee of the state within the last five years;

(4) Two primary care physicians, licensed under chapter 334, who care for participants, not from the same geographic area, chosen in the same manner as described in section 334.120;

(5) Two physicians, licensed under chapter 334, who care for participants but who are not primary care physicians and are not from the same geographic area, chosen in the same manner as described in section 334.120;

(6) One representative of the state hospital association;

(7) Two nonphysician health care professionals, the first nonphysician health care professional licensed under chapter 335 and the second nonphysician health care professional licensed under chapter 337, who care for participants;

(8) One dentist, who cares for participants, chosen in the same manner as described in section 332.021;

(9) Two patient advocates who have no financial interest in the health care industry and who have not been employees of the state within the last five years;

(10) One public member who has no financial interest in the health care industry and who has not been an employee of the state within the last five years; and

(11) The directors of the department of social services, the department of mental health, the department of health and senior services, or the respective directors' designees, who shall serve as ex officio members of the committee.

2. The members of the oversight committee, other than the members from the general assembly and ex officio members, shall be appointed by the governor with the advice and consent of the senate. A chair of the oversight committee shall be selected by the members of the oversight committee. Of the members first appointed to the oversight committee by the governor, eight members shall serve a term of two years, seven members shall serve a term of one year, and thereafter, members shall serve a term of two years. Members shall continue to serve until their successor is duly appointed and qualified. Any vacancy on the oversight committee shall be filled in the same manner as the original appointment. Members shall serve on the oversight committee without compensation but may be reimbursed for their actual and necessary expenses from moneys appropriated to the department of social services for that purpose. The department of social services shall provide technical, actuarial, and administrative support services as required by the oversight committee. The oversight committee shall:

(1) Meet on at least four occasions annually, including at least four before the end of December of the first year the committee is established. Meetings can be held by telephone or video conference at the discretion of the committee;

(2) Review the participant and provider satisfaction reports and the reports of health outcomes, social and behavioral outcomes, use of evidence-based medicine and best practices as required of the health improvement plans and the department of social services under section 208.950;

(3) Review the results from other states of the relative success or failure of various models of health delivery attempted;

(4) Review the results of studies comparing health plans conducted under section 208.950;

(5) Review the data from health risk assessments collected and reported under section 208.950;

(6) Review the results of the public process input collected under section 208.950;

(7) Advise and approve proposed design and implementation proposals for new health improvement plans submitted by the department, as well as make recommendations and suggest modifications when necessary;

(8) Determine how best to analyze and present the data reviewed under section 208.950 so that the health outcomes, participant and provider satisfaction, results from other states, health plan comparisons, financial impact of the various health improvement plans and models of care, study of provider access, and results of public input can be used by consumers, health care providers, and public officials;

(9) Present significant findings of the analysis required in subdivision (8) of this subsection in a report to the general assembly and governor, at least annually, beginning January 1, 2009;

(10) Review the budget forecast issued by the legislative budget office, and the report required under subsection (22) of subsection 1 of section 208.151, and after study:

(a) Consider ways to maximize the federal drawdown of funds;

(b) Study the demographics of the state and of the MO HealthNet population, and how those demographics are changing;

(c) Consider what steps are needed to prepare for the increasing numbers of participants as a result of the baby boom following World War II;

(11) Conduct a study to determine whether an office of inspector general shall be established. Such office would be responsible for oversight, auditing, investigation, and performance review to provide increased accountability, integrity, and oversight of state medical assistance programs, to assist in improving agency and program operations, and to deter and identify fraud, abuse, and illegal acts. The committee shall review the experience of all states that have created a similar office to determine the impact of creating a similar office in this state; and

(12) Perform other tasks as necessary, including but not limited to making recommendations to the division concerning the promulgation of rules and emergency rules so that quality of care, provider availability, and participant satisfaction can be assured.

3. **[**By July 1, 2011, the oversight committee shall issue findings to the general assembly on the success and failure of health improvement plans and shall recommend whether or not any health improvement plans should be discontinued.

4.**]** The oversight committee shall designate a subcommittee devoted to advising the department on the development of a comprehensive entry point system for long-term care that shall:

(1) Offer Missourians an array of choices including community-based, in-home, residential and institutional services;

(2) Provide information and assistance about the array of long-term care services to Missourians;

(3) Create a delivery system that is easy to understand and access through multiple points, which shall include but shall not be limited to providers of services;

(4) Create a delivery system that is efficient, reduces duplication, and streamlines access to multiple funding sources and programs;

(5) Strengthen the long-term care quality assurance and quality improvement system;

(6) Establish a long-term care system that seeks to achieve timely access to and payment for care, foster quality and excellence in service delivery, and promote innovative and cost-effective strategies; and

(7) Study one-stop shopping for seniors as established in section 208.612.

[5.**]** **4.** The subcommittee shall include the following members:

(1) The lieutenant governor or his or her designee, who shall serve as the subcommittee chair;

(2) One member from a Missouri area agency on aging, designated by the governor;

(3) One member representing the in-home care profession, designated by the governor;

(4) One member representing residential care facilities, predominantly serving MO HealthNet participants, designated by the governor;

(5) One member representing assisted living facilities or continuing care retirement communities, predominantly serving MO HealthNet participants, designated by the governor;

(6) One member representing skilled nursing facilities, predominantly serving MO HealthNet participants, designated by the governor;

(7) One member from the office of the state ombudsman for long-term care facility residents, designated by the governor;

(8) One member representing Missouri centers for independent living, designated by the governor;

(9) One consumer representative with expertise in services for seniors or persons with a disability, designated by the governor;

(10) One member with expertise in Alzheimer's disease or related dementia;

(11) One member from a county developmental disability board, designated by the governor;

(12) One member representing the hospice care profession, designated by the governor;

(13) One member representing the home health care profession, designated by the governor;

(14) One member representing the adult day care profession, designated by the governor;

(15) One member gerontologist, designated by the governor;

(16) Two members representing the aged, blind, and disabled population, not of the same geographic area or demographic group designated by the governor;

(17) The directors of the departments of social services, mental health, and health and senior services, or their designees; and

(18) One member of the house of representatives and one member of the senate serving on the oversight committee, designated by the oversight committee chair.

Members shall serve on the subcommittee without compensation but may be reimbursed for their actual and necessary expenses from moneys appropriated to the department of health and senior services for that purpose. The department of health and senior services shall provide technical and administrative support services as required by the committee.

[6. By October 1, 2008, the comprehensive entry point system subcommittee shall submit its report to the governor and general assembly containing recommendations for the implementation of the comprehensive entry point system, offering suggested legislative or administrative proposals deemed necessary by the subcommittee to minimize conflict of interests for successful implementation of the system. Such report shall contain, but not be limited to, recommendations for implementation of the following consistent with the provisions of section 208.950:

(1) A complete statewide universal information and assistance system that is integrated into the web-based electronic patient health record that can be accessible by phone, in-person, via

MO HealthNet providers and via the internet that connects consumers to services or providers and is used to establish consumers' needs for services. Through the system, consumers shall be able to independently choose from a full range of home, community-based, and facility-based health and social services as well as access appropriate services to meet individual needs and preferences from the provider of the consumer's choice;

(2) A mechanism for developing a plan of service or care via the web-based electronic patient health record to authorize appropriate services;

(3) A preadmission screening mechanism for MO HealthNet participants for nursing home care;

(4) A case management or care coordination system to be available as needed; and

(5) An electronic system or database to coordinate and monitor the services provided which are integrated into the web-based electronic patient health record.

7. Starting July 1, 2009, and for three years thereafter, the subcommittee shall provide to the governor, lieutenant governor and the general assembly a yearly report that provides an update on progress made by the subcommittee toward implementing the comprehensive entry point system.

8.**] 5.** The provisions of section 23.253 shall not apply to sections 208.950 to 208.955.

EXPLANATION: Subsection 7 only applied to the first 6 months after August 28, 2009.

407.485. UNWANTED HOUSEHOLD ITEMS, COLLECTION OF DEEMED UNFAIR BUSINESS PRACTICE, WHEN — RECEPTACLES, REQUIREMENTS. — 1. It shall be an unfair business practice in violation of section 407.020 for a for-profit entity or natural person to collect unwanted household items via a public receptacle and resell the deposited items for profit unless the deposited item receptacle prominently displays a statement in bold letters at least two inches high and two inches wide stating: "DEPOSITED ITEMS ARE NOT FOR CHARITABLE ORGANIZATIONS AND WILL BE RESOLD FOR PROFIT. DEPOSITED ITEMS ARE NOT TAX DEDUCTIBLE.".

2. It shall be an unfair business practice in violation of section 407.020 for a for-profit entity or natural person to collect donations of unwanted household items via a public receptacle and resell the donated items where some or all of the proceeds from the sale are directly given to a not-for-profit entity unless the donation receptacle prominently displays a statement in bold letters at least two inches high and two inches wide stating: "DONATIONS TO THE FOR-PROFIT COMPANY: (name of the company) ARE SOLD FOR PROFIT AND (% of proceeds donated to the not-for-profit) % OF ALL PROCEEDS ARE DONATED TO (name of the nonprofit beneficiary organization's name).".

3. It shall be an unfair business practice in violation of section 407.020 for a for-profit entity or natural person to collect donations of unwanted household items via a public receptacle and resell the donated items, where such for-profit entity is paid a flat fee, not contingent upon the proceeds generated by the sale of the collected goods, and one hundred percent of the proceeds from the sale of the items are given directly to the not-for-profit, unless the donation receptacle prominently displays a statement in bold letters at least two inches high and two inches wide stating: "THIS DONATION RECEPTACLE IS OPERATED BY THE FOR-PROFIT ENTITY: (name of the for-profit/individual) ON BEHALF OF (name of the nonprofit beneficiary organization's name).".

4. It shall be an unfair business practice in violation of section 407.020 for a not-for-profit entity to collect donations of unwanted household items via a public receptacle and resell the donated items unless the donation receptacle prominently displays a statement in bold letters at least two inches high and two inches wide stating: "THIS RECEPTACLE IS OWNED AND OPERATED BY THE NOT-FOR-PROFIT ENTITY: (name of the not-for-profit/charity) AND (% of proceeds donated to the not-for-profit) % OF THE PROCEEDS FROM THE

SALE OF ANY DONATIONS SHALL BE USED FOR THE CHARITABLE MISSION OF (charity name/charitable cause).".

5. The term "bold letters" as used in subsections 1, 2, and 3 of this section shall mean a primary color on a white background so as to be clearly visible to the public.

6. Nothing in this section shall apply to paper, glass, or aluminum products that are donated for the purpose of being recycled in the manufacture of other products.

7. **[**Any entity which, on or before June 1, 2009, has distributed one hundred or more separate public receptacles within the state of Missouri to which the provisions of subsection 2 or 3 of this section would apply shall be deemed in compliance with the signage requirements imposed by this section for the first six months after August 28, 2009, provided such entity has made or is making good faith efforts to bring all signage in compliance with the provisions of this section and all such signage is in complete compliance no later than six months after August 28, 2009.

8.**]** All receptacles described in this section shall conspicuously display the name, address, and telephone number of the owner and operator of the receptacle. The owner or operator of the receptacle shall maintain permission to place the receptacle on the property from the property owner or his or her agent where the receptacle is located. Such permission shall be in writing and clearly identify the owner of the receptacle and property owner or his or her agent in addition to the nature of the collections and where proceeds will be accrued. Failure to secure such permission shall constitute an unfair business practice in addition to any other statutory conditions. Unless otherwise agreed upon in writing, the property owner or his or her agent may remove the receptacle. Any charges incurred in such removal shall be the responsibility of the owner of the receptacle. Unless the receptacle owner pays such charges within thirty calendar days of the sending of a written certified letter from the property owner stating his or her intent to remove the receptacle, the receptacle owner shall relinquish any right to the receptacle. If the receptacle does not conspicuously display the name, address, and telephone number of the owner and operator of the receptacle, the receptacle shall be considered abandoned property and may be destroyed or permanently possessed by the property owner or their agent.

[9.**] 8.** Any owner and operator of a receptacle that does not display the address of the owner and operator, but does display the website of the owner and operator, shall make the address easily accessible on such website for the property owner to send the letter specified in subsection 8 of this section. The provisions of this subsection shall expire on September 1, 2014.

EXPLANATION: The exemption in subsection 3 expired June 1, 2010.

443.805. LICENSE REQUIRED TO BROKER RESIDENTIAL MORTGAGE. — 1. No person shall engage in the business of brokering, funding, servicing or purchasing of residential mortgage loans without first obtaining a license as a residential mortgage loan broker from the director, pursuant to sections 443.701 to 443.893 and the regulations promulgated thereunder. The licensing provisions of sections 443.805 to 443.812 shall not apply to any person engaged solely in commercial mortgage lending or to any person exempt as provided in section 443.703 or pursuant to regulations promulgated as provided in sections 443.701 to 443.893.

2. No person except a licensee or exempt person shall do any business under any name or title or circulate or use any advertising or make any representation or give any information to any person which indicates or reasonably implies activity within the scope of the provisions of sections 443.701 to 443.893.

[3. Any exempt entity as defined by section 443.803 on July 7, 2009, shall be exempt from the licensing requirements of this section until June 1, 2010. Any such exempt entities already licensed between July 8, 2009, and June 1, 2010, shall not be eligible for any refund of licensure fees.**]**

EXPLANATION: The transfer of revenue authorized in subsection 16 applied only to FY2003.

542.301. DISPOSITION OF UNCLAIMED SEIZED PROPERTY — FORFEITURE TO THE STATE, WHEN — ALLEGEDLY OBSCENE MATTER, HOW TREATED — APPEAL AUTHORIZED. — 1. Property which comes into the custody of an officer or of a court as the result of any seizure and which has not been forfeited pursuant to any other provisions of law or returned to the claimant shall be disposed of as follows:

(1) Stolen property, or property acquired in any other manner declared an offense by chapters 569 and 570, but not including any of the property referred to in subdivision (2) of this subsection, shall be delivered by order of court upon claim having been made and established, to the person who is entitled to possession:

(a) The claim shall be made by written motion filed with the court with which a motion to suppress has been, or may be, filed. The claim shall be barred if not made within one year from the date of the seizure;

(b) Upon the filing of such motion, the judge shall order notice to be given to all persons interested in the property, including other claimants and the person from whose possession the property was seized, of the time, place and nature of the hearing to be held on the motion. The notice shall be given in a manner reasonably calculated to reach the attention of all interested persons. Notice may be given to unknown persons and to persons whose address is unknown by publication in a newspaper of general circulation in the county. No property shall be delivered to any claimant unless all interested persons have been given a reasonable opportunity to appear and to be heard;

(c) After a hearing, the judge shall order the property delivered to the person or persons entitled to possession, if any. The judge may direct that delivery of property required as evidence in a criminal proceeding shall be postponed until the need no longer exists;

(d) A law enforcement officer having custody of seized property may, at any time that seized property has ceased to be useful as evidence, request that the prosecuting attorney of the county in which property was seized file a motion with the court of such county for the disposition of the seized property. If the prosecuting attorney does not file such motion within sixty days of the request by the law enforcement officer having custody of the seized property, then such officer may request that the attorney general file a written motion with the circuit court of the county or judicial district in which the seizure occurred. Upon filing of the motion, the court shall issue an order directing the disposition of the property. Such disposition may, if the property is not claimed within one year from the date of the seizure or if no one establishes a right to it, and the seized property has ceased to be useful as evidence, include a public sale of the property. Pursuant to a motion properly filed and granted under this section, the proceeds of any sale, less necessary expenses of preservation and sale, shall be paid into the county treasury for the use of the county. If the property is not salable, the judge may order its destruction. Notwithstanding any other provision of law, if no claim is filed within one year of the seizure and no motion pursuant to this section is filed within six months thereafter, and the seized property has ceased to be useful as evidence, the property shall be deemed abandoned, converted to cash and shall be turned over immediately to the treasurer pursuant to section 447.543;

(e) If the property is a living animal or is perishable, the judge may, at any time, order it sold at public sale. The proceeds shall be held in lieu of the property. A written description of the property sold shall be filed with the judge making the order of sale so that the claimant may identify the property. If the proceeds are not claimed within the time limited for the claim of the property, the proceeds shall be paid into the county treasury. If the property is not salable, the judge may order its destruction.

(2) Weapons, tools, devices, computers, computer equipment, computer software, computer hardware, cellular telephones, or other devices capable of accessing the internet, and substances other than motor vehicles, aircraft or watercraft, used by the owner or with the owner's consent as a means for committing felonies other than the offense of possessing burglary tools in violation of section 569.180, and property, the possession of which is an offense under the laws of this state or which has been used by the owner, or used with the owner's acquiescence or

consent, as a raw material or as an instrument to manufacture, produce, or distribute, or be used as a means of storage of anything the possession of which is an offense under the laws of this state, or which any statute authorizes or directs to be seized, other than lawfully possessed weapons seized by an officer incident to an arrest, shall be forfeited to the state of Missouri.

2. The officer who has custody of the property shall inform the prosecuting attorney of the fact of seizure and of the nature of the property. The prosecuting attorney shall thereupon file a written motion with the court with which the motion to suppress has been, or may be, filed praying for an order directing the forfeiture of the property. If the prosecuting attorney of a county in which property is seized fails to file a motion with the court for the disposition of the seized property within sixty days of the request by a law enforcement officer, the officer having custody of the seized property may request the attorney general to file a written motion with the circuit court of the county or judicial district in which the seizure occurred. Upon filing of the motion, the court shall issue an order directing the disposition of the property. The signed motion shall be returned to the requesting agency. A motion may also be filed by any person claiming the right to possession of the property praying that the court declare the property not subject to forfeiture and order it delivered to the moving party.

3. Upon the filing of a motion either by the prosecuting attorney or by a claimant, the judge shall order notice to be given to all persons interested in the property, including the person out of whose possession the property was seized and any lienors, of the time, place and nature of the hearing to be held on the motion. The notice shall be given in a manner reasonably calculated to reach the attention of all interested persons. Notice may be given to unknown persons and to persons of unknown address by publication in a newspaper of general circulation in the county. Every interested person shall be given a reasonable opportunity to appear and to be heard as to the nature of the person's claim to the property and upon the issue of whether or not it is subject to forfeiture.

4. If the evidence is clear and convincing that the property in issue is in fact of a kind subject to forfeiture under this subsection, the judge shall declare it forfeited and order its destruction or sale. The judge shall direct that the destruction or sale of property needed as evidence in a criminal proceeding shall be postponed until this need no longer exists.

5. If the forfeited property can be put to a lawful use, it may be ordered sold after any alterations which are necessary to adapt it to a lawful use have been made. In the case of computers, computer equipment, computer software, computer hardware, cellular telephones, or other devices capable of accessing the internet, or other devices used in the acquisition, possession, or distribution of child pornography or obscene material, the law enforcement agency in possession of such items may, upon court order, retain possession of such property and convert such property to the use of the law enforcement agency for use in criminal investigations. If there is a holder of a bona fide lien against property which has been used as a means for committing an offense or which has been used as a raw material or as an instrument to manufacture or produce anything which is an offense to possess, who establishes that the use was without the lienholder's acquiescence or consent, the proceeds, less necessary expenses of preservation and sale, shall be paid to the lienholder to the amount of the lienholder's lien. The remaining amount shall be paid into the county treasury.

6. If the property is perishable the judge may order it sold at a public sale or destroyed, as may be appropriate, prior to a hearing. The proceeds of a sale, less necessary expenses of preservation and sale, shall be held in lieu of the property.

7. When a warrant has been issued to search for and seize allegedly obscene matter for forfeiture to the state, after an adversary hearing, the judge, upon return of the warrant with the matter seized, shall give notice of the fact to the prosecuting attorney of the county in which the matter was seized and the dealer, exhibitor or displayer and shall conduct further adversary proceedings to determine whether the matter is subject to forfeiture. If the evidence is clear and convincing that the matter is obscene as defined by law and it was being held or displayed for sale, exhibition, distribution or circulation to the public, the judge shall declare it to be obscene

and forfeited to the state and order its destruction or other disposition; except that, no forfeiture shall be declared without the dealer, distributor or displayer being given a reasonable opportunity to appear in opposition and without the judge having thoroughly examined each item. If the material to be seized is the same as or another copy of matter that has already been determined to be obscene in a criminal proceeding against the dealer, exhibitor, displayer or such person's agent, the determination of obscenity in the criminal proceeding shall constitute clear and convincing evidence that the matter to be forfeited pursuant to this subsection is obscene. Except when the dealer, exhibitor or displayer consents to a longer period, or by such person's actions or pleadings willfully prevents the prompt resolution of the hearing, judgment shall be rendered within ten days of the return of the warrant. If the matter is not found to be obscene or is not found to have been held or displayed for sale, exhibition or distribution to the public, or a judgment is not entered within the time provided for, the matter shall be restored forthwith to the dealer, exhibitor or displayer.

8. If an appeal is taken by the dealer, exhibitor or displayer from an adverse judgment, the case should be assigned for hearing at the earliest practicable date and expedited in every way. Destruction or disposition of a matter declared forfeited shall be postponed until the judgment has become final by exhaustion of appeal, or by expiration of the time for appeal, and until the matter is no longer needed as evidence in a criminal proceeding.

9. A determination of obscenity, pursuant to this subsection, shall not be admissible in any criminal proceeding against any person or corporation for sale or possession of obscene matter; except that dealer, distributor or displayer from which the obscene matter was seized for forfeiture to the state.

10. When allegedly obscene matter or pornographic material for minors has been seized under a search warrant issued pursuant to subsection 2 of section 542.281 and the matter is no longer needed as evidence in a criminal proceeding the prosecuting attorney of the county in which the matter was seized may file a written motion with the circuit court of the county or judicial district in which the seizure occurred praying for an order directing the forfeiture of the matter. Upon filing of the motion, the court shall set a date for a hearing. Written notice of date, time, place and nature of the hearing shall be personally served upon the owner, dealer, exhibitor, displayer or such person's agent. Such notice shall be served no less than five days before the hearing.

11. If the evidence is clear and convincing that the matter is obscene as defined by law, and that the obscene material was being held or displayed for sale, exhibition, distribution or circulation to the public or that the matter is pornographic for minors and that the pornographic material was being held or displayed for sale, exhibition, distribution or circulation to minors, the judge shall declare it to be obscene or pornographic for minors and forfeited to the state and order its destruction or other disposition. A determination that the matter is obscene in a criminal proceeding as well as a determination that such obscene material was held or displayed for sale, exhibition, distribution or circulation to the public or a determination that the matter is pornographic for minors in a criminal proceeding as well as a determination that such pornographic material was held or displayed for sale, exhibition, distribution or circulation to minors shall be clear and convincing evidence that such material should be forfeited to the state; except that, no forfeiture shall be declared without the dealer, distributor or displayer being given a reasonable opportunity to appear in opposition and without a judge having thoroughly examined each item. A dealer, distributor or displayer shall have had reasonable opportunity to appear in opposition if the matter the prosecutor seeks to destroy is the same matter that formed the basis of a criminal proceeding against the dealer, distributor or displayer where the dealer, distributor or displayer has been charged and found guilty of holding or displaying for sale, exhibiting, distributing or circulating obscene material to the public or pornographic material for minors to minors. If the matter is not found to be obscene, or if obscene material is not found to have been held or displayed for sale, exhibition, distribution or circulation to the public, or if the matter is not found to be pornographic for minors or if pornographic material is not found

to have been held or displayed for sale, exhibition, distribution or circulation to minors, the matter shall be restored forthwith to the dealer, exhibitor or displayer.

12. If an appeal is taken by the dealer, exhibitor or displayer from an adverse judgment, the case shall be assigned for hearing at the earliest practicable date and expedited in every way. Destruction or disposition of matter declared forfeited shall be postponed until the judgment has become final by exhaustion of appeal, or by expiration of the time for appeal, and until the matter is no longer needed as evidence in a criminal proceeding.

13. A determination of obscenity shall not be admissible in any criminal proceeding against any person or corporation for sale or possession of obscene matter.

14. An appeal by any party shall be allowed from the judgment of the court as in other civil actions.

15. All other property still in the custody of an officer or of a court as the result of any seizure and which has not been forfeited pursuant to this section or any other provision of law after three years following the seizure and which has ceased to be useful as evidence shall be deemed abandoned, converted to cash and shall be turned over immediately to the treasurer pursuant to section 447.543.

[16. In fiscal year 2003, the commissioner of administration shall estimate the amount of any additional state revenue received pursuant to this section and section 447.532, shall transfer an equivalent amount of general revenue to the schools of the future fund created in section 163.005.**]**

EXPLANATION: This section expired 08-28-11.

[8.305. APPLIANCES PURCHASED SHALL BE ENERGY STAR UNDER FEDERAL PROGRAM — EXEMPTIONS, WHEN — EXPIRATION DATE. — 1. Any appliance purchased with state moneys or a portion of state moneys shall be an appliance that has earned the Energy Star under the Energy Star program co-sponsored by the United States Department of Energy and the United States Environmental Protection Agency. For purposes of this section, the term appliance shall have the same meaning as in section 144.526.

2. The commissioner of the office of administration may exempt any appliance from the requirements of subsection 1 of this section when the cost of compliance is expected to exceed the projected energy cost savings gained.

3. The provisions of this section shall expire on August 28, 2011.**]**

EXPLANATION: The report required under this section was due for submission by 12-31-09 (report submitted by the deadline).

[21.485. STUDY ON GOVERNANCE IN URBAN SCHOOL DISTRICTS — REPORT. — During the legislative interim between the first regular session of the ninety-fifth general assembly through December 31, 2009, the joint committee on education shall study the issue of governance in urban school districts containing most or all of a home rule city with more than four hundred thousand inhabitants and located in more than one county. In studying this issue, the joint committee may solicit input and information necessary to fulfill its obligation, including but not limited to soliciting input and information from any state department, state agency, school district, political subdivision of the state, teachers, administrators, school board members, all interested parties concerned about governance within the school districts identified in this section, and the general public. The joint committee shall prepare a final report, together with its recommendations for any legislative action deemed necessary for submission to the general assembly by December 31, 2009.**]**

EXPLANATION: This section expired 12-31-11.

[21.800. JOINT COMMITTEE ON TERRORISM, BIOTERRORISM, AND HOMELAND SECURITY ESTABLISHED, MEMBERS, DUTIES, MEETINGS, EXPENSES, REPORT — EXPIRES, WHEN. — 1. There is established a joint committee of the general assembly to be known as the "Joint Committee on Terrorism, Bioterrorism, and Homeland Security" to be composed of seven members of the senate and seven members of the house of representatives. The senate members of the joint committee shall be appointed by the president pro tem and minority floor leader of the senate and the house members shall be appointed by the speaker and minority floor leader of the house of representatives. The appointment of each member shall continue during the member's term of office as a member of the general assembly or until a successor has been appointed to fill the member's place when his or her term of office as a member of the general assembly has expired. No party shall be represented by more than four members from the house of representatives nor more than four members from the senate. A majority of the committee shall constitute a quorum, but the concurrence of a majority of the members shall be required for the determination of any matter within the committee's duties.

2. The joint committee shall:

(1) Make a continuing study and analysis of all state government terrorism, bioterrorism, and homeland security efforts, including the feasibility of compiling information relevant to immigration enforcement issues;

(2) Devise a standard reporting system to obtain data on each state government agency that will provide information on each agency's terrorism and bioterrorism preparedness, and homeland security status at least biennially;

(3) Determine from its study and analysis the need for changes in statutory law; and

(4) Make any other recommendation to the general assembly necessary to provide adequate terrorism and bioterrorism protections, and homeland security to the citizens of the state of Missouri.

3. The joint committee shall meet within thirty days after its creation and organize by selecting a chairperson and a vice chairperson, one of whom shall be a member of the senate and the other a member of the house of representatives. The chairperson shall alternate between members of the house and senate every two years after the committee's organization.

4. The committee shall meet at least quarterly. The committee may meet at locations other than Jefferson City when the committee deems it necessary.

5. The committee shall be staffed by legislative personnel as is deemed necessary to assist the committee in the performance of its duties.

6. The members of the committee shall serve without compensation but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their official duties.

7. It shall be the duty of the committee to compile a full report of its activities for submission to the general assembly. The report shall be submitted not later than the fifteenth of January of each year in which the general assembly convenes in regular session and shall include any recommendations which the committee may have for legislative action as well as any recommendations for administrative or procedural changes in the internal management or organization of state or local government agencies and departments. Copies of the report containing such recommendations shall be sent to the appropriate directors of state or local government agencies or departments included in the report.

8. The provisions of this section shall expire on December 31, 2011.]

EXPLANATION: This section expired on 01-01-13 (a report was due by 12-31-12 under subsection 4; report was submitted).

[21.801. COMMITTEE CREATED, MEMBERS, MEETINGS — REPORT, CONTENT — SUBCOMMITTEE CREATED — EXPIRATION. — 1. There is hereby established a joint committee of the general assembly, which shall be known as the "Joint Committee on Urban Agriculture".

2. The joint committee shall be composed of ten members. Five members shall be from the senate, with three members appointed by the president pro tem of the senate and two members appointed by the minority leader of the senate. Five members shall be from the house of representatives, with three members appointed by the speaker of the house of representatives and two members appointed by the minority leader of the house of representatives. All members of the Missouri general assembly not appointed in this subsection may be nonvoting, ex officio members of the joint committee. A majority of the appointed members of the joint committee shall constitute a quorum.

3. The joint committee shall meet within thirty days after it becomes effective and organize by selecting a chairperson and a vice chairperson, one of whom shall be a member of the senate and the other a member of the house of representatives. The joint committee may meet at locations other than Jefferson City when the committee deems it necessary.

4. The committee shall prepare a final report together with its recommendations for any legislative action deemed necessary for submission to the speaker of the house of representatives, president pro tem of the senate, and the governor by December 31, 2012. The report shall study and make recommendations regarding the impact of urban farm cooperatives, vertical farming, and sustainable living communities in this state and shall examine the following:

(1) Trends in urban farming, including vertical farming, urban farm cooperatives, and sustainable living communities;

(2) Existing services, resources, and capacity for such urban farming;

(3) The impact on communities and populations affected; and

(4) Any needed state legislation, policies, or regulations.

5. The committee shall hold a minimum of one meeting at three urban regions in the state of Missouri to seek public input. The committee may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the committee considers advisable to carry out the provisions of this section.

6. The joint committee may solicit input and information necessary to fulfill its obligations from the general public, any state department, state agency, political subdivision of this state, or anyone else it deems advisable.

7. (1) The joint committee shall establish a subcommittee to be known as the "Urban Farming Advisory Subcommittee" to study, analyze, and provide background information, recommendations, and findings in preparation of each of the public hearings called by the joint committee. The subcommittee may also review draft recommendations of the joint committee, if requested. The subcommittee will meet as often as necessary to fulfill the requirements and time frames set by the joint committee.

(2) The subcommittee shall consist of twelve members, as follows:

(a) Four members shall include the directors of the following departments, or their designees:

a. Agriculture, who shall serve as chair of the subcommittee;

b. Economic development;

c. Health and senior services; and

d. Natural resources; and

(b) The chair shall select eight additional members, subject to approval by a majority of the joint committee, who shall have experience in or represent organizations associated with at least one of the following areas:

a. Sustainable energy;

b. Farm policy;

c. Urban botanical gardening;

d. Sustainable agriculture;

e. Urban farming or community gardening;

f. Vertical farming;

g. Agriculture policy or advocacy; and

h. Urban development.

8. Members of the committee and subcommittee shall serve without compensation but may be reimbursed for necessary expenses pertaining to the duties of the committee.

9. The staffs of senate research, the joint committee on legislative research, and house research may provide such legal, research, clerical, technical, and bill drafting services as the joint committee may require in the performance of its duties.

10. Any actual and necessary expenses of the joint committee, its members, and any staff assigned to the joint committee incurred by the joint committee shall be paid by the joint contingent fund.

11. The provisions of this section shall expire on January 1, 2013.]

EXPLANATION: This section expired on 01-01-11. (report due by 12-31-10; no report was submitted, the committee never met).

[21.910. COMMITTEE CREATED, MEMBERS, DUTIES — REPORT — EXPIRATION. — 1. There is hereby created the "Joint Committee on the Reduction and Reorganization of Programs within State Government". The committee shall be composed of thirteen members as follows:

(1) Three majority party members and two minority party members of the senate, to be appointed by the president pro tem of the senate;

(2) Three majority party members and two minority party members of the house of representatives, to be appointed by the speaker of the house of representatives;

(3) The commissioner of the office of administration, or his or her designee;

(4) A representative of the governor's office; and

(5) A supreme court judge, or his or her designee, as selected by the Missouri supreme court.

2. The committee shall study programs within every department that should be eliminated, reduced, or combined with another program or programs. As used in this section, the term "program" shall have the same meaning as in section 23.253.

3. In order to assist the committee with its responsibilities under this section, each department shall comply with any request for information made by the committee with regard to any programs administered by such department.

4. The members of the committee shall elect a chairperson and vice chairperson.

5. The committee shall submit a report to the general assembly by December 31, 2010, and such report shall contain any recommendations of the committee for eliminating, reducing, or combining any program with another program or programs in the same or a different department.

6. The provisions of this section shall expire on January 1, 2011.**]**

EXPLANATION: This section expired 08-28-10.

[82.291. DERELICT VEHICLE, REMOVAL AS A NUISANCE (HAZELWOOD) — DEFINITION, PROCEDURE — TERMINATION DATE. — 1. For purposes of this section, "derelict vehicle" means any motor vehicle or trailer that was originally designed or manufactured to transport persons or property on a public highway, road, or street and that is junked, scrapped, dismantled, disassembled, or in a condition otherwise harmful to the public health, welfare, peace, and safety.

2. The owner of any property located in any home rule city with more than twenty-six thousand two hundred but less than twenty-six thousand three hundred inhabitants, except any property subclassed as agricultural and horticultural property pursuant to Section 4(b), Article X, of the Constitution of Missouri or any property containing any licensed vehicle service or repair facility, who permits derelict vehicles or substantial parts of derelict vehicles to remain on the property other than inside a fully enclosed permanent structure designed and constructed for vehicle storage shall be liable for the removal of the vehicles or the parts if they are declared to be a public nuisance.

3. To declare derelict vehicles or parts of derelict vehicles to be a public nuisance, the governing body of the city shall give a hearing upon ten days' notice, either personally or by United States mail to the owner or agent, or by posting a notice of the hearing on the property. At the hearing, the governing body may declare the vehicles or the parts to be public nuisances, and may order the nuisance to be removed within five business days. If the nuisance is not removed within the five days, the governing body or the designated city official shall have the nuisance removed and shall certify the costs of the removal to the city clerk or the equivalent official, who shall cause a special tax bill for the removal to be prepared against the property and collected by the collector with other taxes assessed on the property, and to be assessed any interest and penalties for delinquency as other delinquent tax bills are assessed as permitted by law.

4. The provisions of this section shall terminate on August 28, 2010.**]**

EXPLANATION: The fund in this section applies to the pilot program in Section 160.932 which expired in 2011.

[160.932. PILOT PROGRAM FOR A PART-TIME CHILD-FIND COORDINATOR (ST. LOUIS). — 1. Subject to appropriations, the department of elementary and secondary education shall implement a pilot program allowing the regional interagency coordinating council of the greater St. Louis system point of entry to hire a part-time child-find coordinator to conduct the child-find requirements under subsection 3 of section 160.910 for the region. The part-time child-find coordinator shall be hired, selected, and employed by the regional interagency coordinating council of the greater St. Louis system point of entry by July 1, 2008.

2. By September 1, 2010, the greater St. Louis system point of entry shall conduct a study on the effect of hiring the child-find coordinator under this section. The study shall be submitted to the department, the state interagency coordinating council and the general assembly.

3. The provisions of this section shall expire on September 1, 2011.**]**

EXPLANATION: The fund in this section applies to the pilot program in Section 160.932 which expired in 2011.

[160.933. PROGRAM FUND CREATED, USE OF MONEYS — RULEMAKING AUTHORITY. — 1. There is hereby created in the state treasury the "Part C Early Intervention Pilot Program Fund" for implementing the provisions of section 160.932. Moneys deposited in the fund shall be considered state funds under article IV, section

15 of the Missouri Constitution. The state treasurer shall be custodian of the fund and may disburse moneys from the fund in accordance with sections 30.170 and 30.180. Upon appropriation, money in the fund shall be used solely for administration of section 160.932. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

2. At the end of each biennium and after all statutorily or constitutionally required transfer of funds have been made, the state treasurer shall transfer the balance in the fund, except for gifts, donations, bequests, or money received from a federal source, created in subsection 1 of this section in excess of two hundred percent of the previous fiscal year's expenditures into the state general revenue fund.

3. The department of elementary and secondary education shall promulgate rules to implement the provisions of section 160.932. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.**]**

EXPLANATION: This section expired 08-28-12.

[168.083. TEMPORARY ADMINISTRATOR CERTIFICATE GRANTED, WHEN — MENTORING PROGRAM DEVELOPED — EXPIRATION DATE. — 1. Any qualified applicant may be granted a temporary administrator certificate upon joint application with a Missouri public school district or accredited nonpublic school which establishes a mentoring program pursuant to subsection 2 of this section. The temporary administrator certificate is limited to the employing Missouri public school district or accredited nonpublic school. An applicant for a temporary administrator certificate may apply for only one area of certification at a time.

2. The employing Missouri public school district or accredited nonpublic school shall develop a mentoring program to provide adequate support to the holder of the temporary administrator certificate to ensure proper transition into the administrative environment.

3. The temporary administrator certificate of license to teach is valid for up to one school year. It may be renewed annually for up to four subsequent years by joint application from the certificate holder and employing Missouri public school district or accredited nonpublic school upon demonstration that the applicant is making continuous, measurable progress toward obtaining a full administrator certificate of license to teach. The state board of education shall establish specific standards as to what constitutes making measurable progress toward obtaining a full administrator certificate; provided that a full administrator certificate at that grade level shall be required after the fifth year of a temporary administrator certificate in order to retain administrator certification.

4. Applications for a Missouri temporary administrator certificate shall be submitted on forms provided and approved by the state board of education.

5. The state board of education shall promulgate rules and regulations for the issuance and renewal of temporary administrator certificates. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536.

6. As used in this section, the term "qualified applicant" shall mean a person who:

(1) Holds a valid certificate of license to teach in Missouri;

(2) Has a master's degree or is currently enrolled in a master's degree program; and

(3) Has at least five years of teaching experience in a public school, in an accredited nonpublic school, or in a combination of such schools at the grade level for which the temporary administrator certificate is sought.

7. The provisions of this section shall expire August 28, 2012.**]**

EXPLANATION: This section expired 11-01-12 (report due by 11-15-10 under subsection 6; report submitted on November 18, 2010).

[191.115. ALZHEIMER'S STATE PLAN TASK FORCE ESTABLISHED, MEMBERS, DUTIES, MEETINGS, REPORT — EXPIRATION DATE. — 1. There is hereby established in the department of health and senior services an "Alzheimer's State Plan Task Force". The task force shall consist of nineteen members, as follows:

(1) The lieutenant governor or his or her designee, who shall serve as chair of the task force;

(2) The directors of the departments of health and senior services, social services, and mental health or their designees;

(3) One member of the house of representatives appointed by the speaker of the house;

(4) One member of the senate appointed by the president pro tem of the senate;

(5) One member who has early-stage Alzheimer's or a related dementia;

(6) One member who is a family caregiver of a person with Alzheimer's or a related dementia;

(7) One member who is a licensed physician with experience in the diagnosis, treatment, and research of Alzheimer's disease;

(8) One member from the office of the state ombudsman for long-term care facility residents;

(9) One member representing the home care profession;

(10) One member representing residential long-term care;

(11) One member representing the adult day services profession;

(12) One member representing the insurance profession;

(13) One member representing the area agencies on aging;

(14) One member with expertise in minority health;

(15) One member who is a licensed elder law attorney;

(16) Two members from the leading voluntary health organization in Alzheimer's care, support, and research.

2. The members of the task force, other than the lieutenant governor, members from the general assembly, and department directors, shall be appointed by the governor with the advice and consent of the senate. Members shall serve on the task force without compensation.

3. The task force shall:

(1) Assess the current and future impact of Alzheimer's disease and related dementia on residents of the state of Missouri;

(2) Examine the existing services and resources addressing the needs of persons with dementia, their families, and caregivers; and

(3) Develop recommendations to respond to the escalating public health situation regarding Alzheimer's.

4. The task force shall include an examination of the following in its assessment and recommendations required to be completed under subsection 3 of this section:

(1) Trends in state Alzheimer's and related dementia populations and their needs, including but not limited to the state's role in long-term care, family caregiver support,

and assistance to persons with early-stage Alzheimer's, early onset of Alzheimer's, and individuals with Alzheimer's disease as a result of Down's Syndrome;

(2) Existing services, resources, and capacity, including but not limited to:

(a) Type, cost, and availability of services for persons with dementia, including home- and community-based resources, respite care to assist families, residential long-term care options, and adequacy and appropriateness of geriatric-psychiatric units for persons with behavior disorders associated with Alzheimer's and related dementia;

(b) Dementia-specific training requirements for individuals employed to provide care for persons with dementia;

(c) Quality care measure for services delivered across the continuum of care;

(d) Capacity of public safety and law enforcement to respond to persons with Alzheimer's and related dementia;

(e) State support for Alzheimer's research through institutes of higher learning in Missouri;

(3) Needed state policies or responses, including but not limited to directions for the provision of clear and coordinated services and supports to persons and families living with Alzheimer's and related dementias and strategies to address any identified gaps in services.

5. The task force shall hold a minimum of one meeting at four diverse geographic regions in the state of Missouri during the calendar year to seek public input.

6. The task force shall submit a report of its findings and date-specific recommendations to the general assembly and the governor in the form of a state Alzheimer's plan no later than November 15, 2010, as part of Alzheimer's disease awareness month.

7. The task force shall continue to meet at the request of the chair and at a minimum of one time annually for the purpose of evaluating the implementation and impact of the task force recommendations and provide annual supplemental reports on the findings to the governor and the general assembly.

8. The provisions of this section shall expire on November 1, 2012.**]**

EXPLANATION: The feasibility report required under this section was due 12-31-11 (report issued December 2012).

[192.105. WATER QUALITY TESTING SYSTEM, FEASIBILITY OF — REPORT. — The department of health and senior services shall examine the feasibility of implementing a real-time water quality testing system for measuring the bacterial water quality at state-owned public beaches and shall issue a report of its findings to the general assembly by December 31, 2011.]

EXPLANATION: This section expired 12-31-11.

[197.291. TECHNICAL ADVISORY COMMITTEE ON QUALITY OF PATIENT CARE AND NURSING PRACTICES ESTABLISHED, MEMBERS, APPOINTMENT, DUTIES. — 1. There is hereby established a "Technical Advisory Committee on the Quality of Patient Care and Nursing Practices" within the department of health and senior services. The committee shall be comprised of nine members appointed by the director of the department of health and senior services, one of whom shall be a representative of the department of health and senior services and one of whom shall be a representative of the general public. In addition, the director shall appoint three members representing licensed registered nurses from a list of recommended appointees provided by the Missouri Nurses Association, one member representing licensed practical nurses from a list of recommended appointees provided by the Missouri Licensed Practical Nurses

Association, two members from a list of recommended appointees provided by the Missouri Hospital Association, and one member representing licensed physicians from a list of recommended appointees provided by the Missouri State Medical Association.

2. The committee shall work with hospitals, nurses, physicians, state agencies, community groups and academic researchers to develop specific recommendations related to staffing, improving the quality of patient care, and insuring the safe and appropriate employment of licensed nurses within hospitals and ambulatory surgical centers. The committee shall develop recommendations and submit an annual report based on such recommendations to the governor, chairpersons of standing health and appropriations committees of the general assembly and the department of health and senior services no later than December thirty-first of each year.

3. The department of health and senior services shall provide such support as the committee members require to aid it in the performance of its duties.

4. Committee members shall not be compensated for their services but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

5. The provisions of this section shall expire on December 31, 2011.**]**

EXPLANATION: This section expired 08-31-12 (report due 08-31-12 under subsection 5; no report submitted by deadline).

[262.950. BOARD CREATED, DEFINITIONS, MEMBERS, MISSION, DUTIES — REPORT — MEETINGS — EXPIRATION DATE. — 1. As used in this section, the following terms shall mean:

(1) "Locally grown agricultural products", food or fiber produced or processed by a small agribusiness or small farm;

(2) "Small agribusiness", an independent agribusiness located in Missouri with gross annual sales of less than five million dollars;

(3) "Small farm", an independent family-owned farm in Missouri with at least one family member working in the day-to-day operation of the farm.

2. There is hereby created an advisory board, which shall be known as the "Farm-to-Table Advisory Board". The board shall be made up of at least one representative from the following agencies: the University of Missouri extension service, the department of agriculture, the department of elementary and secondary education, the department of economic development, the department of corrections, and the office of administration. In addition, the director of the department of agriculture shall appoint one person actively engaged in the practice of small agribusiness. The representative for the department of agriculture shall serve as the chairperson for the board and shall coordinate the board meetings. The board shall hold at least two meetings, but may hold more as it deems necessary to fulfill its requirements under this section. Staff of the department of agriculture may provide administrative assistance to the board if such assistance is required.

3. The mission of the board is to provide recommendations for strategies that:

(1) Allow schools and state institutions to more easily incorporate locally grown agricultural products into their cafeteria offerings, salad bars, and vending machines; and

(2) Increase public awareness of local agricultural practices and the role that local agriculture plays in sustaining healthy communities and supporting healthy lifestyles.

4. In fulfilling its mission under this section, the board shall:

(1) Investigate the status and availability of local, state, federal, and any other public or private resources that may be used to:

(a) Link schools and state institutions with local and regional farms for the purchase of locally grown agricultural products;

(b) Increase market opportunities for locally grown agricultural products;

(c) Assist schools and other entities with education campaigns that teach children and the general public about the concepts of food production and consumption; the interrelationships between nutrition, food choices, obesity, and health; and the value of having an accessible supply of locally grown food;

(2) Identify any type of barrier, which may include legal, logistical, technical, social, or financial, that prevents or hinders:

(a) Schools and state institutions from purchasing more locally grown agricultural products;

(b) The expansion of market opportunities for locally grown agricultural products;

(c) Schools and other entities from engaging in education campaigns to teach people about the concepts of food production and consumption; the interrelationships between nutrition, food choices, obesity, and health; and the value of having an accessible supply of locally grown food; and

(3) Develop recommendations for:

(a) The maximization of existing public and private resources to accomplish the objectives in subsection 3 of this section;

(b) The development of new or expanded resources deemed necessary to accomplish the objectives in subsection 3 of this section, which may include resources such as training programs, grant programs, or database development; and

(c) The elimination of barriers that hinder the objectives in subsection 3 of this section, which may include changes to school or state institution procurement policies or procedures.

5. The board shall prepare a report containing its findings and recommendations and shall deliver such report to the governor, the general assembly, and to the director of each agency represented on the board by no later than August 31, 2012.

6. In conducting its work, the board may hold public meetings at which it may invite testimony from experts or it may solicit information from any party it deems may have information relevant to its duties under this section.

7. This section shall expire on August 31, 2012.]

EXPLANATION: The committee established under this section was dissolved after submission of its report in 2007.

[301.129. ADVISORY COMMITTEE, DUTIES, MEMBERS, PUBLIC MEETINGS, EXPENSES, DISSOLUTION OF COMMITTEE. — There is established in this section an advisory committee for the department of revenue, which shall exist solely to develop uniform designs and common colors for motor vehicle license plates issued under this chapter and to determine appropriate license plate parameters for all license plates issued under this chapter. The advisory committee may adopt more than one type of design and color scheme for license plates issued under this chapter; however, each license plate of a distinct type shall be uniform in design and color scheme with all other license plates of that distinct type. The specifications for the fully reflective material used for the plates, as required by section 301.130, shall be determined by the committee. Such plates shall meet any specific requirements prescribed in this chapter. The advisory committee shall consist of the director of revenue, the superintendent of the highway patrol, the correctional enterprises administrator, and the respective chairpersons of both the senate and house of representatives transportation committees. Notwithstanding section 226.200 to the contrary, the general assembly may appropriate state highways and transportation department funds for the requirements of section 301.130 and this section. Prior to January 1, 2007, the committee shall meet, select a chairman from among their members, and develop uniform design and license plate

parameters for the motor vehicle license plates issued under this chapter. Prior to determining the final design of the plates, the committee shall hold at least three public meetings in different areas of the state to invite public input on the final design. Members of the committee shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties under this section out of funds appropriated for that purpose. The committee shall direct the director of revenue to implement its final design of the uniform motor vehicle license plates and any specific parameters for all license plates developed by the committee not later than January 1, 2007. The committee shall be dissolved upon completion of its duties under this section.**]**

EXPLANATION: This section expired 08-28-11.

[311.489. PERMIT FOR SALES AT SPECIFIED FESTIVAL EVENTS, ISSUED WHEN — PROMOTIONAL ASSOCIATION DEFINED — PROCEDURE — PERMIT HOLDER RESPONSIBLE FOR ANY ALCOHOL VIOLATIONS, CIVIL FINE — EXPIRES, WHEN (KANSAS CITY). — 1. After obtaining the approvals as described in this section, a permit for the sale of intoxicating liquor as defined in section 311.020, and nonintoxicating beer as defined in section 312.010, for consumption on premises where sold, and to conduct specified festival events, shall be issued by the division of alcohol and tobacco control to any festival district, located in a community improvement district in any home rule city with more than four hundred thousand inhabitants and located in more than one county, that includes three or more businesses that are licensed bars, nightclubs, restaurants, or other entertainment venues and a common area that is closed to vehicle traffic, provided that the permit is held by a promotional association. A "promotional association" is defined as an entity formed by property owners who own or operate fifty percent or more of the square feet of bars, nightclubs, restaurants, and other entertainment venues located within the proposed festival district.

2. The promotional association shall obtain a permit from the division if the promotional association submits a plan to the governing body of the city and such a plan receives approval from the city governing body. The plan submitted shall include the legal description of the district and the common area within which such festivals shall be held, the name and address and responsible person for each business participating in the promotional association, the specific calendar of events for the district which shall not exceed twenty-four such events annually and shall include the dates and times of any such events, a description of the proposed festival activities, including any proposed public street closures if applicable, proof of adequate insurance, and a detailed description of security for any proposed festivals which shall be provided at the sole expense of the promotional association. Such detailed description of security shall be approved by the city police department and the city department of liquor control prior to the plan being approved by the city. Each event on the calendar shall not exceed forty-eight hours in length. No more than two events shall be held in any calendar month. Such permit shall cost three hundred dollars per year.

3. Prior to approving the plan, the city shall notify all property owners in the proposed district and within five hundred feet of such district's boundaries. The city shall hold a public hearing at least thirty days after providing such notice to obtain public views and comments on the issue. The city shall not approve any plan unless the promotional association has obtained written approval from at least fifty percent of the property owners within the district and within one hundred eighty-five feet of its borders. If the written approvals required under this section are obtained and the city approves the plan, the promotional association may conduct the events described in the plan and may sell liquor for consumption within the district common areas. Such

liquor sales may only occur between 9:00 a.m. and 1:00 a.m. In addition, for no more than ten twenty-four hour periods in a year, such promotional association may permit customers to leave an establishment within the district after purchasing an alcoholic beverage and consume the beverage in the district common areas or another licensed establishment within the district. All containers allowed to be removed from an establishment shall be marked with the name or logo of the establishment where it was purchased. No person shall be allowed to take any alcoholic beverage outside the boundaries of the festival district.

4. If participating in a promotional association event, every bar, nightclub, restaurant, promotional association, or other entertainment venue that serves alcoholic beverages within the festival district shall use disposable paper, plastic, or foam cups or other light-weight containers for all alcoholic beverages that the bar, nightclub, restaurant, promotional association, or other entertainment venue sells within the festival district boundaries for consumption in the district common area.

5. Minors shall not be allowed to enter the festival district during a festival event that serves liquor.

6. The holder of the permit is solely responsible for any alcohol violations occurring within the common areas. For any violation of this chapter or of any rule or regulation of the supervisor of alcohol and tobacco control, the promotional association may be assessed a civil fine of not more than five thousand dollars. If a promotional association is found to be responsible for such violations at three separate events, then such promotional association shall not seek approval for subsequent plans without the prior written consent of the supervisor of alcohol and tobacco control. The promotional association's then-current plan shall be deemed terminated, and the businesses participating in the promotional association's events shall not participate in activities permitted by subsection 3 of this section without prior written consent from the supervisor of alcohol and tobacco control.

7. The provisions of this section shall expire two years after August 28, 2009.**]**

EXPLANATION: The report required under this section was due no later than January 6, 2010 (report submitted by the deadline).

[374.776. STUDY ON LICENSURE AND POLICIES OF BAIL BOND INDUSTRY, HEARINGS, REPORT. — During the legislative interim between the first regular session and the second regular session of the ninety-fifth general assembly, the Missouri department of insurance, financial institutions and professional registration shall conduct a study regarding its licensing rules and other policies and procedures governing the bail bond industry within the state of Missouri. The department, in its discretion, may hold public hearings within the state and permit testimony and input from surety insurance companies, general bail bond agents, bail bond agents, legislators, law enforcement agencies, officials from the department, and other interested parties. If public hearings are held, the director shall provide notice to all licensees licensed under sections 374.695 to 374.789 of the date, time, and location of such public hearings. The department shall submit a report of its findings and recommendations to the house of representatives and senate insurance committees no later than January 6, 2010.]

EXPLANATION: Sections 376.825 to 376.836 expired 01-01-11 (see section 376.836).

[376.825. TITLE. — Sections 376.825 to 376.840 shall be known and may be cited as the "Mental Health and Chemical Dependency Insurance Act".**]**

[376.826. DEFINITIONS. — For the purposes of sections 376.825 to 376.836 the following terms shall mean:

(1) "Director", the director of the department of insurance, financial institutions and professional registration;

(2) "Health insurance policy" or "policy", all health insurance policies or contracts that are individually underwritten or provide such coverage for specific individuals and members of their families, which provide for hospital treatments. The term shall also include any individually underwritten coverage issued by a health maintenance organization. The provisions of sections 376.825 to 376.836 shall not apply to policies which provide coverage for a specified disease only, other than for mental illness or chemical dependency;

(3) "Insurer", an entity licensed by the department of insurance, financial institutions and professional registration to offer a health insurance policy;

(4) "Mental illness", the following disorders contained in the International Classification of Diseases (ICD-9-CM):

(a) Schizophrenic disorders and paranoid states (295 and 297, except 297.3);

(b) Major depression, bipolar disorder, and other affective psychoses (296);

(c) Obsessive compulsive disorder, post-traumatic stress disorder and other major anxiety disorders (300.0, 300.21, 300.22, 300.23, 300.3 and 309.81);

(d) Early childhood psychoses, and other disorders first diagnosed in childhood or adolescence (299.8, 312.8, 313.81 and 314);

(e) Alcohol and drug abuse (291, 292, 303, 304, and 305, except 305.1); and

(f) Anorexia nervosa, bulimia and other severe eating disorders (307.1, 307.51, 307.52 and 307.53);

(g) Senile organic psychotic conditions (290);

(5) "Rate", "term", or "condition", any lifetime limits, annual payment limits, episodic limits, inpatient or outpatient service limits, and out-of-pocket limits. This definition does not include deductibles, co-payments, or coinsurance prior to reaching any maximum out-of-pocket limit. Any out-of-pocket limit under a policy shall be comprehensive for coverage of mental illness and physical conditions.**]**

[376.827. REQUIREMENTS FOR MENTAL ILLNESS COVERAGE — PARITY WITH COVERAGE PROVIDED FOR PHYSICAL CONDITIONS. — 1. Nothing in this bill shall be construed as requiring the coverage of mental illness.

2. Except for the coverage required pursuant to subsection 1 of section 376.779, and the offer of coverage required pursuant to sections 376.810 through 376.814, if any of the mental illness disorders enumerated in subdivision (4) of section 376.826 are provided by the health insurance policy, the coverage provided shall include all the disorders enumerated in subdivision (4) of section 376.826 and shall not establish any rate, term, or condition that places a greater financial burden on an insured for access to evaluation and treatment for mental illness than for access to evaluation and treatment for physical conditions, generally, except that alcohol and other drug abuse services shall have a minimum of thirty days total inpatient treatment and a minimum of twenty total visits for outpatient treatment for each year of coverage. A lifetime limit equal to four times such annual limits may be imposed. The days allowed for inpatient treatment can be converted for use for outpatient treatment on a two-for-one basis.

3. Deductibles, co-payment or coinsurance amounts for access to evaluation and treatment for mental illness shall not be unreasonable in relation to the cost of services provided.

4. A health insurance policy that is a federally qualified plan of benefits shall be construed to be in compliance with sections 376.825 to 376.836 if the policy is issued

by a federally qualified health maintenance organization and the federally qualified health maintenance organization offered mental health coverage as required by sections 376.825 to 376.836. If such coverage is rejected, the federally qualified health maintenance organization shall, at a minimum, provide coverage for mental health services as a basic health service as required by the Federal Public Health Service Act, 42 U.S.C. Section 300e., et seq.

5. Health insurance policies that provide mental illness benefits pursuant to sections 376.825 to 376.840 shall be deemed to be in compliance with the requirements of subsection 1 of section 376.779.

6. The director may disapprove any policy that the director determines to be inconsistent with the purposes of this section.]

[376.830. SERVICES ADMINISTERED AND DELIVERED BY WHOM — CONTRACTED SERVICES PERMITTED, WHEN. — 1. The coverages set forth in sections 376.825 to 376.840 may be administered pursuant to a managed care program established by the insurance company, health services corporation or health maintenance organization, and covered services may be delivered through a system of contractual arrangements with one or more licensed providers, community mental health centers, hospitals, nonresidential or residential treatment programs, or other mental health service delivery entities certified by the department of mental health, or accredited by a nationally recognized organization, or licensed by the state of Missouri. Nothing in this section shall authorize any unlicensed provider to provide covered services.

2. An insurer may use a case management program for mental illness benefits to evaluate and determine medically necessary and clinically appropriate care and treatment for each patient.

3. Nothing in sections 376.825 to 376.840 shall be construed to require a managed care plan as defined by section 354.600, when providing coverage for benefits governed by sections 376.825 to 376.840, to cover services rendered by a provider other than a participating provider, except for the coverage pursuant to subsection 4 of section 376.811. An insurer may contract for benefits provided in sections 376.825 to 376.840 with a managing entity or group of providers for the management and delivery of services for benefits governed by sections 376.825 to 376.840.**]**

[376.833. INAPPLICABILITY OF SECTION 376.827, WHEN — WAIVER GRANTED TO POLICYHOLDER, WHEN. — 1. The provisions of section 376.827 shall not be violated if the insurer decides to apply different limits or exclude entirely from coverage the following:

(1) Marital, family, educational, or training services unless medically necessary and clinically appropriate;

(2) Services rendered or billed by a school or halfway house;

(3) Care that is custodial in nature;

(4) Services and supplies that are not medically necessary nor clinically appropriate; or

(5) Treatments that are considered experimental.

2. The director shall grant a policyholder a waiver from the provisions of section 376.827 if the policyholder demonstrates to the director by actual experience over any consecutive twenty-four-month period that compliance with sections 376.825 to 376.840 has increased the cost of the health insurance policy by an amount that results in a two percent increase in premium costs to the policyholder.**]**

[376.836. EFFECTIVE DATE — STUDY CONDUCTED BY DIRECTOR, CONTENTS, REPORT TO GENERAL ASSEMBLY — EXCLUSIONS — EXPIRATION DATE. — 1. The provisions of sections 376.825 to 376.836 apply to applications for coverage made on or after January 1, 2005, and to health insurance policies issued or renewed on or after such date to residents of this state. Multiyear group policies need not comply until the expiration of their current multiyear term unless the policyholder elects to comply before that time.

2. This section shall not apply to a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, hospitalization-surgical care policy, short-term major medical policy of six months or less duration, or any other supplemental policy as determined by the director of the department of insurance, financial institutions and professional registration.

3. The provisions of sections 376.825 to 376.836 shall expire on January 1, 2011.**]**

EXPLANATION: This section expired 12-31-10 (preliminary report submitted in 2008; final report submitted 12-31-10).

[383.250. HEALTH CARE STABILIZATION FUND FEASIBILITY BOARD CREATED, DUTIES, REPORT — MEMBERS — APPOINTMENT, MEETINGS, REPORTS — POWERS — STAFF — COMPENSATION — EXPIRATION DATE. — 1. There is hereby created within the department of insurance, financial institutions and professional registration the "Health Care Stabilization Fund Feasibility Board". The primary duty of the board is to determine whether a health care stabilization fund should be established in Missouri to provide excess medical malpractice insurance coverage for health care providers. As part of its duties, the board shall develop a comprehensive study detailing whether a health care stabilization fund is feasible within Missouri, or specified geographic regions thereof, or whether a health care stabilization fund would be feasible for specific medical specialties. The board shall analyze medical malpractice insurance data collected by the department of insurance, financial institutions and professional registration under sections 383.105 and 383.106 and any other data the board deems necessary to its mission. In addition to analyzing data collected from the Missouri medical malpractice insurance market, the board may study the experience of other states that have established health care stabilization funds or patient compensation funds. If a health care stabilization fund is determined to be feasible within Missouri, the report shall also recommend to the general assembly how the fund should be structured, designed, and funded. The report may contain any other recommendations relevant to the establishment of a health care stabilization fund, including but not limited to specific recommendations for any statutory or regulatory changes necessary for the establishment of a health care stabilization fund.

2. The board shall consist of ten members. Other than the director, the house members and the senate members, the remainder of the board's members shall be appointed by the director of the department of insurance, financial institutions and professional registration as provided for in this subsection. The board shall be composed of:

(1) The director of the department of insurance, financial institutions and professional registration, or his or her designee;

(2) Two members of the Missouri senate appointed by the president pro tem of the senate with no more than one from any political party;

(3) Two members of the Missouri house of representatives appointed by the speaker of the house with no more than one member from any political party;

(4) One member who is licensed to practice medicine as a medical doctor who is on a list of nominees submitted to the director by an organization representing Missouri's medical society;

(5) One member who practices medicine as a doctor of osteopathy and who is on a list of nominees submitted to the director by an organization representing Missouri doctors of osteopathy;

(6) One member who is a licensed nurse in Missouri and who is on a list submitted to the director by an organization representing Missouri nurses;

(7) One member who is a representative of Missouri hospitals and who is on a list of nominees submitted to the director by an organization representing Missouri hospitals; and

(8) One member who is a physician and who is on a list submitted to the director by an organization representing family physicians in the state of Missouri.

3. The director shall appoint the members of the board, other than the general assembly members, no later than January 1, 2007. Once appointed, the board shall meet at least quarterly, and shall submit its final report and recommendations regarding the feasibility of a health care stabilization fund to the governor and the general assembly no later than December 31, 2010. The board shall also submit annual interim reports to the general assembly regarding the status of its progress.

4. The board shall have the authority to convene conferences and hold hearings. All conferences and hearings shall be held in accordance with chapter 610.

5. The director of the department of insurance, financial institutions and professional registration shall provide and coordinate staff and equipment services to the board to facilitate the board's duties.

6. Board members shall receive no additional compensation but shall be eligible for reimbursement for expenses directly related to the performance of their duties.

7. The provisions of this section shall expire December 31, 2010.**]**

EXPLANATION: The authority delegated under this section expired 08-28-09.

[393.171. INCORPORATION AND FRANCHISES, PERMISSION AND APPROVAL AFTER INSTRUCTION AND ACQUISITION OF PLANT PERMITTED, WHEN — EXPIRATION DATE. — 1. The commission shall have the authority to grant the permission and approval specified in section 393.170 after the construction or acquisition of any electric plant located in a first class county without a charter form of government has been completed if the commission determines that the grant of such permission and approval is necessary or convenient for the public service. Any such permission and approval shall, for all purposes, have the same effect as the permission and approval granted prior to such construction or acquisition. This subsection is enacted to clarify and specify the law in existence at all times since the original enactment of section 393.170.

2. No permission or approval granted for an electric plant by the commission under subsection 1 of this section, nor any special use permit issued for any such electric plant by the governing body of the county in which the electric plant is located, shall extinguish, render moot, or mitigate any suit or claim pending or otherwise allowable by law by any landowner or other legal entity for monetary damages allegedly caused by the operation or existence of such electric plant. Expenses incurred by an electrical corporation in association with the payment of any such damages shall not be recoverable, in any form at any time, from the ratepayers of any such electrical corporation.

3. The commission's authority under subsection 1 of this section shall expire on August 28, 2009.**]**

EXPLANATION: This section expired 01-01-10.

[488.2205. 30TH JUDICIAL CIRCUIT TO COLLECT SURCHARGE, WHEN — USE OF FUNDS — EXPIRATION. — 1. In addition to all court fees and costs prescribed by law, a surcharge of up to ten dollars shall be assessed as costs in each court proceeding filed in any court within the thirtieth judicial circuit in all criminal cases including violations of any county or municipal ordinance or any violation of a criminal or traffic law of the state, including an infraction, except that no such surcharge 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 order, ordinance or resolution by the county government where the violation occurred. For violations of municipal ordinances, no such surcharge shall be collected unless it is authorized, by order, ordinance or resolution by the municipal government where the violation occurred. Such surcharges shall be collected and disbursed by the clerk of each respective court responsible for collecting court costs in the manner provided by sections 488.010 to 488.020, and shall be payable to the treasurer of the county where the violation occurred.

2. Each county shall use all funds received pursuant to this section only to pay for the costs associated with the construction, maintenance and operation of the county judicial facility and the circuit juvenile detention center including, but not limited to, utilities, maintenance and building security. The county shall maintain records identifying such operating costs, and any moneys not needed for the operating costs of the county judicial facility shall be transmitted quarterly to the general revenue fund of the county.

3. This section shall expire and be of no force and effect on and after January 1, 2010.]

EXPLANATION: This section expired 07-01-10.

[620.602. JOINT COMMITTEE ON POLICY AND PLANNING, ESTABLISHED — MEMBERS, APPOINTMENT OF, EXPENSES — MEETINGS, OFFICERS, DUTIES — EXPIRATION DATE. — 1. There is established a permanent joint committee of the general assembly to be known as the "Joint Committee on Economic Development Policy and Planning" to be composed of five members of the senate, appointed by the president pro tem of the senate, and five members of the house, appointed by the speaker of the house. No more than three members of the senate and three members of the house shall be from the same political party. The appointment of members shall continue during their terms of office as members of the general assembly or until successors have been duly appointed to fill their places when their terms of office as members of the general assembly have expired. Members of the joint committee shall receive no compensation in addition to their salary as members of the general assembly, but may receive their necessary expenses for attending the meetings of the committee, to be paid out of the committee's appropriations or the joint contingent fund.

2. The joint committee on economic development policy and planning shall meet within ten days after its establishment and organize by selecting a chairman and a vice chairman, one of whom shall be a member of the senate and the other a member of the house of representatives. These positions shall rotate annually between a member of the senate and a member of the house of representatives. The committee shall regularly meet at least quarterly. A majority of the members of the committee shall

constitute a quorum. The committee may, within the limits of its appropriations, employ such persons as it deems necessary to carry out its duties. The compensation of such personnel shall be paid from the committee's appropriations or the joint contingent fund.

3. The joint committee on economic development policy and planning shall, at its regular meetings, confer with representatives from the governor's office, the department of economic development, the University of Missouri extension service, and other interested parties from the private and public sectors. The joint committee shall review the annual report produced by the department of economic development, as required by section 620.607, and plan, develop and evaluate a long-term economic development policy for the state of Missouri to ensure the state's competitive status with other states.

4. The provisions of this section shall expire on July 1, 2010.**]**

EXPLANATION: The committee was disbanded on January 1, 1996.

[630.461. REVIEW COMMITTEE FOR PURCHASING ESTABLISHED, DUTIES — MEMBERS, QUALIFICATIONS — RECOMMENDATIONS DUE WHEN, FAILURE TO RECOMMEND, EFFECT — COMMITTEE DISBANDED, JANUARY 1, 1996. — 1. There is hereby created in the department of mental health a committee to be known as the "Review Committee for Purchasing" to review the manner in which the department of mental health purchases services for persons with mental health disorders and substance abuse problems. By December 31, 1995, the committee shall recommend to the governor and the general assembly any changes that should be made in the department of mental health purchasing systems, including whether the department should follow a competitive purchasing model and, if so, the time frame for initiating such change. The recommendation of the committee shall be made in the context of state and national health care reform and with the goal of providing effective services in a coordinated and affordable manner.

2. The review committee on purchasing created in subsection 1 of this section shall be composed of nine members as follows:

(1) One member of the mental health commission, appointed by the governor;

(2) One representative of the office of administration, appointed by the governor;

(3) The governor or his designee;

(4) Two members appointed at large by the governor, with one member representing the business community and one public member;

(5) Two members, appointed at large by the governor, with one member being a private provider and one member being affiliated with a hospital;

(6) Two members, appointed at large by the governor, who are consumers of mental health services or family members of consumers of mental health services.

3. The review committee established in subsection 1 of this section shall be disbanded on January 1, 1996.

4. Notwithstanding any other provision of law to the contrary, beginning July 1, 1997, if the review committee failed to make the recommendations to the governor and the general assembly as required in subsection 1 of this section, the department of mental health may contract directly with vendors operated or funded pursuant to sections 205.975 to 205.990, or operated or funded pursuant to sections 205.968 to 205.973, without competitive bids. All contracts with vendors who are providers of a consortium of treatment services to the clients of the division of comprehensive psychiatric services shall be awarded in accordance with chapter 34.**]**

EXPLANATION: This section expired 09-30-11.

[633.410. DEFINITIONS — PROVIDER CERTIFICATION FEE REQUIRED, FORMULA — FUND CREATED, USE OF MONEYS — RULEMAKING AUTHORITY. — 1. For purposes of this section, the following terms mean:

(1) "Certification fee", a fee to be paid by providers of health benefit services, which in the aggregate for all providers shall not exceed the overall cost of the department of mental health's operation of its certification programs for residential habilitation, individualized supported living, and day habilitation services provided to developmentally disabled individuals;

(2) "Home and community-based waiver services for persons with developmental disabilities", a department of mental health program which admits persons who are developmentally disabled for residential habilitation, individualized supported living, or day habilitation services under chapter 630;

(3) "Provider of health benefit services", publicly and privately operated programs providing residential habilitation, individualized supported living, or day habilitation services to developmentally disabled individuals that have been certified to meet department of mental health certification standards.

2. Beginning July 1, 2009, each provider of health benefit services accepting payment shall pay a certification fee.

3. Each provider's fee shall be based on a formula set forth in rules and regulations promulgated by the department of mental health.

4. The fee imposed under this section shall be determined based on the reasonable costs incurred by the department of mental health in its programs of certification of providers of health benefit services. Imposition of the fee shall be contingent upon receipt of all necessary federal approvals under federal law and regulation to assure that the collection of the fee will not adversely affect the receipt of federal financial participation in medical assistance under Title XIX of the federal Social Security Act.

5. Fees shall be determined annually and prorated monthly by the director of the department of mental health or his or her designee and shall be made payable to the director of the department of revenue.

6. In the alternative, a provider may direct that the director of the department of social services offset, from the amount of any payment to be made by the state to the provider, the amount of the fee payment owed for any month.

7. Fee payments shall be deposited in the state treasury to the credit of the "Home and Community-Based Developmental Disabilities Waiver Reimbursement Allowance Fund", which is hereby created in the state treasury. All investment earnings of this fund shall be credited to the fund. The state treasurer shall be custodian and may approve disbursement. Notwithstanding the provisions of section 33.080 to the contrary, any unexpended balance in the home and community-based developmental disabilities waiver reimbursement allowance fund at the end of the biennium shall not revert to the general revenue fund but shall accumulate from year to year. The state treasurer shall maintain records that show the amount of money in the fund at any time and the amount of any investment earnings on that amount.

8. Every provider of residential habilitation, individualized supported living, and day habilitation services to developmentally disabled individuals shall submit annually an acknowledgment of certification for the purpose of paying its certification fee. The report shall be in such form as may be prescribed by rule by the director of the department of mental health.

9. The director of the department of mental health shall prescribe by rule the form and content of any document required to be filed under the provisions of this section.

10. Upon receipt of notification from the director of the department of mental health of a provider's delinquency in paying fees required under this section, the

director of the department of social services shall withhold, and shall remit to the director of the department of revenue, the fee amount estimated by the director of the department of mental health from any payment to be made by the state to the provider.

11. In the event a provider objects to the estimate described in subsection 10 of this section, or any other decision of the department of mental health related to this section, the provider of services may request a hearing. If a hearing is requested, the director of the department of mental health shall provide the provider of services an opportunity to be heard and to present evidence bearing on the amount due for an assessment or other issue related to this section within thirty days after collection of an amount due or receipt of a request for a hearing, whichever is later. The director of the department of mental health shall issue a final decision within forty-five days of the completion of the hearing. After reconsideration of the fee determination and a final decision by the director of the department of mental health, a residential habilitation, individualized supported living, and day habilitation services to developmentally disabled individuals provider's appeal of the director of the department of mental health's final decision shall be to the administrative hearing commission in accordance with section 208.156 and section 621.055.

12. Notwithstanding any other provision of law to the contrary, appeals regarding this assessment shall be to the circuit court of Cole County or the circuit court in the county in which the provider is located. The circuit court shall hear the matter as the court of original jurisdiction.

13. Nothing in this section shall be deemed to affect or in any way limit the tax-exempt or nonprofit status of any provider of residential habilitation, individualized supported living, and day habilitation services to developmentally disabled individuals granted by state law.

14. The director of the department of mental health shall promulgate rules and regulations to implement this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

15. The provisions of this section shall expire on September 30, 2011.**]**

EXPLANATION: The report required under this section was due for submission no later than December 31, 2011 (report submitted by the deadline).

[640.850. COMMITTEE TO BE CONVENED, PURPOSE, REPORT. — The governor shall convene a committee of representatives of the departments of health and senior services, natural resources, economic development, agriculture, and conservation. The committee shall evaluate opportunities for consolidating services with the goal of improving efficiency and reducing cost while optimizing the benefits to the citizens of Missouri. As part of its evaluation, the committee shall specifically consider the transfer of the division of energy from the department of natural resources to the department of economic development and the consolidation of water quality laboratory testing under the department of health and senior services for purposes of meeting water testing requirements of the federal Safe Drinking Water Act and the Federal Water Pollution Control Act. The committee shall provide recommendations to the governor and general assembly no later than December 31, 2011.**]**

EXPLANATION: This section sunset 06-05-12.

[650.120. GRANTS TO FUND INVESTIGATIONS OF INTERNET SEX CRIMES AGAINST CHILDREN — FUND CREATED — PANEL, MEMBERSHIP, TERMS — LOCAL MATCHING AMOUNTS — PRIORITIES — TRAINING STANDARDS — INFORMATION SHARING — PANEL RECOMMENDATION — POWER OF ARREST — SUNSET PROVISION. — 1. There is hereby created in the state treasury the "Cyber Crime Investigation Fund". The treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180. Beginning with the 2010 fiscal year and in each subsequent fiscal year, the general assembly shall appropriate three million dollars to the cyber crime investigation fund. The department of public safety shall be the administrator of the fund. Moneys in the fund shall be used solely for the administration of the grant program established under this section. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

2. The department of public safety shall create a program to distribute grants to multijurisdictional internet cyber crime law enforcement task forces, multijurisdictional enforcement groups, as defined in section 195.503, that are investigating internet sex crimes against children, and other law enforcement agencies. The program shall be funded by the cyber crime investigation fund created under subsection 1 of this section. Not more than three percent of the money in the fund may be used by the department to pay the administrative costs of the grant program. The grants shall be awarded and used to pay the salaries of detectives and computer forensic personnel whose focus is investigating internet sex crimes against children, including but not limited to enticement of a child, possession or promotion of child pornography, provide funding for the training of law enforcement personnel and prosecuting and circuit attorneys as well as their assistant prosecuting and circuit attorneys, and purchase necessary equipment, supplies, and services. The funding for such training may be used to cover the travel expenses of those persons participating.

3. A panel is hereby established in the department of public safety to award grants under this program and shall be comprised of the following members:

(1) The director of the department of public safety, or his or her designee;

(2) Two members shall be appointed by the director of the department of public safety from a list of six nominees submitted by the Missouri Police Chiefs Association;

(3) Two members shall be appointed by the director of the department of public safety from a list of six nominees submitted by the Missouri Sheriffs' Association;

(4) Two members of the state highway patrol shall be appointed by the director of the department of public safety from a list of six nominees submitted by the Missouri State Troopers Association;

(5) One member of the house of representatives who shall be appointed by the speaker of the house of representatives; and

(6) One member of the senate who shall be appointed by the president pro tem.

The panel members who are appointed under subdivisions (2), (3), and (4) of this subsection shall serve a four-year term ending four years from the date of expiration of the term for which his or her predecessor was appointed. However, a person appointed to fill a vacancy prior to the expiration of such a term shall be appointed for the remainder of the term. Such members shall hold office for the term of his or her appointment and until a successor is appointed. The members of the panel shall

receive no additional compensation but shall be eligible for reimbursement for mileage directly related to the performance of panel duties.

4. Local matching amounts, which may include new or existing funds or in-kind resources including but not limited to equipment or personnel, are required for multijurisdictional internet cyber crime law enforcement task forces and other law enforcement agencies to receive grants awarded by the panel. Such amounts shall be determined by the state appropriations process or by the panel.

5. When awarding grants, priority should be given to newly hired detectives and computer forensic personnel.

6. The panel shall establish minimum training standards for detectives and computer forensic personnel participating in the grant program established in subsection 2 of this section.

7. Multijurisdictional internet cyber crime law enforcement task forces and other law enforcement agencies participating in the grant program established in subsection 2 of this section shall share information and cooperate with the highway patrol and with existing internet crimes against children task force programs.

8. The panel may make recommendations to the general assembly regarding the need for additional resources or appropriations.

9. The power of arrest of any peace officer who is duly authorized as a member of a multijurisdictional internet cyber crime law enforcement task force shall only be exercised during the time such peace officer is an active member of such task force and only within the scope of the investigation on which the task force is working. Notwithstanding other provisions of law to the contrary, such task force officer shall have the power of arrest, as limited in this subsection, anywhere in the state and shall provide prior notification to the chief of police of a municipality or the sheriff of the county in which the arrest is to take place. If exigent circumstances exist, such arrest may be made and notification shall be made to the chief of police or sheriff as appropriate and as soon as practical. The chief of police or sheriff may elect to work with the multijurisdictional internet cyber crime law enforcement task force at his or her option when such task force is operating within the jurisdiction of such chief of police or sheriff.

10. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall sunset automatically six years after June 5, 2006, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall sunset automatically twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.**]**

EXPLANATION: Sections 660.425 to 660.465 expired 09-01-12 (see section 660.465).

[660.425. HOME SERVICES PROVIDERS TAX IMPOSED, DEFINITIONS. — 1. In addition to all other fees and taxes required or paid, a tax is hereby imposed upon in-home services providers for the privilege of providing in-home services. The tax is imposed upon payments received by an in-home services provider for the provision of in-home services.

2. For purposes of sections 660.425 to 660.465, the following terms shall mean:

(1) "Engaging in the business of providing in-home services", all payments received by an in-home services provider for the provision of in-home services;

(2) "In-home services", homemaker services, personal care services, chore services, respite services, consumer-directed services, and services, when provided in the individual's home and under a plan of care created by a physician, necessary to keep children out of hospitals. "In-home services" shall not include home health services as defined by federal and state law;

(3) "In-home services provider", any provider or vendor, as defined in section 208.900, of compensated in-home services and under a provider agreement or contracted with the department of social services or the department of health and senior services.**]**

[660.430. AMOUNT OF TAX, FORMULA — RULEMAKING AUTHORITY — APPEALS. — 1. Each in-home services provider in this state providing in-home services shall, in addition to all other fees and taxes now required or paid, pay an in-home services gross receipts tax, not to exceed six and one-half percent of gross receipts, for the privilege of engaging in the business of providing in-home services in this state.

2. Each in-home services provider's tax shall be based on a formula set forth in rules promulgated by the department of social services. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

3. The director of the department of social services or the director's designee may prescribe the form and contents of any forms or other documents required by sections 660.425 to 660.465

4. Notwithstanding any other provision of law to the contrary, appeals regarding the promulgation of rules under this section shall be made to the circuit court of Cole County. The circuit court of Cole County shall hear the matter as the court of original jurisdiction.**]**

[660.435. LIST OF VENDORS TO BE PROVIDED — RECORD-KEEPING REQUIREMENTS — REPORT OF TOTAL PAYMENTS. — 1. For purposes of assessing the tax under sections 660.425 to 660.465, the department of health and senior services shall make available to the department of social services a list of all providers and vendors under this section.

2. Each in-home services provider subject to sections 660.425 to 660.465 shall keep such records as may be necessary to determine the total payments received for the provision of in-home services by the in-home services provider. Every in-home services provider shall submit to the department of social services a statement that accurately reflects such information as is necessary to determine such in-home services provider's tax due.

3. The director of the department of social services may prescribe the form and contents of any forms or other documents required by this section.

4. Each in-home services provider shall report the total payments received for the provision of in-home services to the department of social services.**]**

[660.440. EFFECTIVE DATE OF TAX. — 1. The tax imposed by sections 660.425 to 660.465 shall become effective upon authorization by the federal Centers for Medicare & Medicaid Services for a gross receipts tax for in-home services.

2. If the federal Centers for Medicare & Medicaid Services determines that their authorization is not necessary for the tax imposed under sections 660.425 to 660.465, the tax shall become effective sixty days after the date of such determination.**]**

[660.445. DETERMINATION OF TAX AMOUNT — NOTIFICATION TO PROVIDER — QUARTERLY TAX ADJUSTMENTS PERMITTED. — 1. The determination of the amount of tax due shall be the total amount of payments reported to the department multiplied by the tax rate established by rule by the department of social services.

2. The department of social services shall notify each in-home services provider of the amount of tax due. Such amount may be paid in increments over the balance of the assessment period.

3. The department of social services may adjust the tax due quarterly on a prospective basis. The department of social services may adjust the tax due more frequently for individual providers if there is a substantial and statistically significant change in the in-home services provided or in the payments received for such services provided. The department of social services may define such adjustment criteria by rule.**]**

[660.450. OFFSET OF TAX PERMITTED, WHEN. — The director of the department of social services may offset the tax owed by an in-home services provider against any Missouri Medicaid payment due such in-home services provider, if the in-home services provider requests such an offset. The amounts to be offset shall result, so far as practicable, in withholding from the in-home services provider an amount substantially equal to the assessment due from the in-home services provider. The office of administration and the state treasurer may make any fund transfers necessary to execute the offset.**]**

[660.455. REMITTANCE OF TAX — FUND CREATED — RECORD-KEEPING REQUIREMENTS. — 1. The in-home services tax owed or, if an offset has been made, the balance after such offset, if any, shall be remitted by the in-home services provider to the department of social services. The remittance shall be made payable to the director of the department of social services and shall be deposited in the state treasury to the credit of the "In-home Services Gross Receipts Tax Fund" which is hereby created to provide payments for in-home services provided. All investment earnings of the fund shall be credited to the fund.

2. An offset authorized by section 660.450 or a payment to the in-home services gross receipts tax fund shall be accepted as payment of the obligation set forth in section 660.425.

3. The state treasurer shall maintain records showing the amount of money in the in-home services gross receipts tax fund at any time and the amount of investment earnings on such amount.

4. Notwithstanding the provisions of section 33.080 to the contrary, any unexpended balance in the in-home services gross receipts tax fund at the end of the biennium shall not revert to the credit of the general revenue fund.**]**

[660.460. NOTIFICATION OF TAXES DUE — UNPAID OR DELINQUENT AMOUNTS, EFFECT OF — FAILURE TO PAY, PENALTY. — 1. The department of social services shall notify each in-home services provider with a tax due of more than ninety days of the amount of such balance. If any in-home services provider fails to pay its

in-home services tax within thirty days of such notice, the in-home services tax shall be delinquent.

2. If any tax imposed under sections 660.425 to 660.465 is unpaid and delinquent, the department of social services may proceed to enforce the state's lien against the property of the in-home services provider and compel the payment of such assessment in the circuit court having jurisdiction in the county where the in-home services provider is located. In addition, the department of social services may cancel or refuse to issue, extend, or reinstate a Medicaid provider agreement to any in-home services provider that fails to pay the tax imposed by section 660.425.

3. Failure to pay the tax imposed under section 660.425 shall be grounds for failure to renew a provider agreement for services or failure to renew a provider contract. The department of social services may revoke the provider agreement of any in-home services provider that fails to pay such tax, or notify the department of health and senior services to revoke the provider contract.**]**

[660.465. EXPIRATION DATE. — 1. The in-home services tax required by sections 660.425 to 660.465 shall expire:

(1) Ninety days after any one or more of the following conditions are met:

(a) The aggregate in-home services fee as appropriated by the general assembly paid to in-home services providers for in-home services provided is less than the fiscal year 2010 in-home services fees reimbursement amount; or

(b) The formula used to calculate the reimbursement as appropriated by the general assembly for in-home services provided is changed resulting in lower reimbursement to in-home services providers in the aggregate than provided in fiscal year 2010; or

(2) September 1, 2012.

The director of the department of social services shall notify the revisor of statutes of the expiration date as provided in this subsection.

2. Sections 660.425 to 660.465 shall expire on September 1, 2012.**]**

EXPLANATION: The report required under this section was due for submission no later than December 31, 2011 (report submission undetermined).

[701.058. STAKEHOLDER MEETINGS, PERMITS AND INSPECTIONS OF SYSTEMS — REPORT. — The department of natural resources and the department of health and senior services shall jointly hold stakeholder meetings for the purpose of gathering data and information regarding permits and inspections for on-site sewage disposal systems. The departments shall evaluate the data and information obtained and present their findings and recommendations in a report to be submitted to the general assembly by December 31, 2011.**]**

EXPLANATION: The report required under this section was due for submission no later than July 1, 2010 (report not submitted by the deadline; DNR did not comply due to lack of funding for the study).

[701.502. STUDY TO BE CONDUCTED — REPORT, CONTENTS. — 1. The department shall conduct a study of the energy efficiency of consumer electronic products and report to the general assembly no later than July 1, 2010. The report shall include:

(1) An assessment of energy requirements and energy usage of consumer electronic products;

(2) Recommendations to consumers regarding appropriate use of consumer electronic products; and

(3) Recommendations to consumers regarding the availability of energy efficient consumer electronic products in Missouri.

2. The report shall be posted on the department's website and made available to the public upon request.**]**

Approved July 2, 2014

HB 1299 [SCS HCS HRB 1299]

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

Revision Bill

AN ACT to repeal sections 3.070, 8.700, 8.110, 8.115, 8.180, 8.200, 8.260, 8.310, 8.315, 8.316, 8.320, 8.325, 8.330, 8.340, 8.350, 8.360, 8.800, 8.830, 8.843, 33.710, 33.750, 33.752, 33.753, 33.756, 34.031, 36.030, 37.005, 37.010, 37.020, 37.110, 43.251, 64.090, 89.020, 135.326, 135.335, 135.339, 143.782, 143.790, 143.1002, 160.545, 160.700, 161.418, 161.424, 167.034, 167.122, 167.123, 169.520, 172.875, 181.110, 186.019, 189.095, 191.737, 191.850, 191.853, 191.855, 191.857, 191.858, 191.859, 191.861, 191.863, 191.865, 191.867, 192.601, 192.935, 193.075, 193.215, 196.1103, 197.312, 197.318, 197.367, 198.018, 198.026, 198.029, 198.077, 198.080, 198.087, 198.090, 198.189, 198.421, 198.428, 198.510, 198.515, 199.025, 205.960, 205.961, 205.962, 205.964, 205.965, 207.010, 207.020, 207.030, 207.070, 207.080, 208.015, 208.030, 208.041, 208.042, 208.047, 208.050, 208.060, 208.070, 208.072, 208.075, 208.080, 208.100, 208.120, 208.125, 208.130, 208.145, 208.150, 208.152, 208.154, 208.157, 208.168, 208.175, 208.176, 208.180, 208.182, 208.190, 208.204, 208.210, 208.217, 208.225, 208.300, 208.325, 208.337, 208.345, 208.400, 208.405, 208.471, 208.477, 208.533, 208.606, 208.609, 208.621, 208.636, 208.780, 209.010, 209.020, 209.030, 209.050, 209.060, 209.070, 209.080, 209.090, 209.100, 209.110, 209.240, 209.251, 210.001, 210.115, 210.165, 210.166, 210.167, 210.192, 210.196, 210.254, 210.481, 210.536, 210.537, 210.543, 210.545, 210.551, 210.560, 210.720, 210.829, 210.830, 210.834, 210.843, 210.846, 210.870, 210.900, 210.950, 211.081, 211.180, 211.183, 211.455, 211.477, 217.575, 226.008, 226.805, 251.100, 251.240, 253.320, 261.010, 285.300, 288.220, 288.270, 301.020, 302.133, 302.134, 302.135, 302.137, 302.171, 302.178, 311.650, 313.210, 320.260, 324.032, 334.125, 338.314, 361.010, 376.819, 452.345, 452.346, 452.347, 452.350, 452.370, 452.416, 453.005, 453.014, 453.015, 453.026, 453.065, 453.070, 453.074, 453.077, 453.102, 453.110, 453.400, 454.400, 454.403, 454.405, 454.408, 454.415, 454.420, 454.425, 454.430, 454.432, 454.433, 454.435, 454.440, 454.445, 454.450, 454.455, 454.460, 454.465, 454.472, 454.478, 454.490, 454.495, 454.496, 454.500, 454.505, 454.513, 454.530, 454.531, 454.565, 454.600, 454.700, 454.853, 454.902, 454.1000, 454.1003, 454.1023, 454.1027, 454.1029, 483.163, 487.080, 487.150, 513.430, 516.350, 577.608, 590.040, 595.030, 595.036, 595.037, 595.060, 610.029, 610.120, 620.010, 620.483, 620.490, 620.556, 620.558, 620.560, 620.562, 620.566, 620.570, 620.572, 620.1100, 620.1580, 630.097, 632.070, 650.005, 660.010, 660.050, 660.053, 660.054, 660.055, 660.057, 660.058, 660.060, 660.062, 660.067, 660.069, 660.070, 660.075, 660.130, 660.225, 660.250, 660.255, 660.260, 660.261, 660.263, 660.265, 660.270, 660.275, 660.280, 660.285, 660.290, 660.295, 660.300, 660.305, 660.310, 660.315, 660.317, 660.320, 660.321, 660.400, 660.403,

660.405, 660.407, 660.409, 660.411, 660.414, 660.416, 660.418, 660.420, 660.523, 660.525, 660.526, 660.600, 660.603, 660.605, 660.608, 660.620, 660.690, and 701.336, RSMo, and to enact in lieu thereof three hundred thirty-seven new sections for the sole purpose of codifying previous executive branch reorganizations, with penalty provisions.

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454.496. Motion to modify order, review — form of motion, service, procedure — effective, when — venue for judicial review of administrative order, procedure.
454.500. Modification of an administrative order, procedure, effect — relief from orders, when.
454.505. Garnishment of wages, when, procedure, limitations — notice to employer, contents — employer, duties, liabilities — priorities — discharge of employee prohibited, when, penalties for — orders issued by another state, laws to govern.
454.513. Attorney representation exclusive — attorney/client relationship not to exist, when — notice to party not represented by attorney, when.
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454.531. Recovery of erroneously paid child support, procedures — penalty.
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454.853. (Repealed L. 2011 H.B. 260 Â§ A)
454.902. (Repealed L. 2011 H.B. 260 Â§ A)
454.1000. Definitions.
454.1003. Suspension of a professional or occupational license, when, procedure.
454.1023. List of licensed attorneys to be provided to division, when — arrearages reported to supreme court clerk.
454.1027. Hunting and fishing license sanctions — department of conservation.
454.1029. No suspension of licenses while obligor honors the support agreement.
483.163. Circuit clerk to cooperate in nonsupport investigations; additional compensation, exception.
487.080. Jurisdiction.
487.150. Family court coordinating committee, duties — members.
513.430. Property exempt from attachment — benefits from certain employee plans, exception — bankruptcy proceeding, fraudulent transfers, exception — construction of section.
516.350. Judgments presumed to be paid, when — presumption, how rebutted — inclusion in the automated child support system — judgment for unpaid rent, revived by publication.
577.608. Department of public safety to certify devices, adopt guidelines — certification information, standards — consultation before certification.
590.040. Minimum hours of basic training required.
595.030. Compensation, out-of-pocket loss requirement, maximum amount for counseling expenses — award, computation — medical care, requirements — counseling, requirements — maximum award — joint claimants, distribution — method, timing of payment determined by department.
595.036. Grievances, decision of department, appeal to administrative hearing commission.
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610.029. Governmental agencies to provide information by electronic services, contracts for public records databases, requirements, electronic services defined — division of data processing may be consulted.
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620.010. Department of economic development created — divisions — agencies — boards and commissions — personnel — powers and duties — rules, procedure.
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620.490. Rulemaking authority, coordination of state and federal job training resources.
620.556. Definitions.
620.558. Programs — participation.
620.560. Community services and conservation program.
620.562. Summer employment program — at-risk participants, remediation.
620.566. Administration of programs — rules and regulations — application, contents, review.
620.570. Evaluation of programs — interagency cooperation — "Show-Me" employers.
620.572. Allocations for operation of corps.
620.1100. Youth opportunities and violence prevention program established, purpose — advisory committee defined, members, appointment — fund, establishment, administration — program criteria, evaluation — database, development, operation.
620.1580. Advisory committee for electronic commerce established, members, terms, meetings.
621.275. Decisions of department of public safety, victims of crime, appeal to administrative hearing commission, procedure.
630.097. Comprehensive children's mental health service system to be developed — team established, members, duties — plan to be developed, content — evaluations to be conducted, when.
632.070. Department of social services to cooperate with mental health department — consent for minors required.
650.005. Department of public safety created — director, appointment — department's duties — rules, procedure.
660.010. Department of social services created — divisions and agencies assigned to department — duties, powers — director's appointment.
660.075. Intermediate care facility for intellectually disabled — certificate of authorization needed for provider agreement — exception — certificates not to be issued, when — notice to department, when.
660.130. Rules, regulations, forms — rule requirements.
660.523. Uniform rules for investigation of child sexual abuse cases — training provided for division, staff.
660.525. Treatment for child sexual abuse victims provided by division, when.
660.526. Child sexual abuse cases, annual training required by children's division.
660.620. Office of advocacy and assistance for senior citizens established in office of lieutenant governor, duties and procedure.
660.690. Protection against spousal impoverishment and premature placement in institutional care, determination of eligibility for Medicaid and medical assistance benefits.
701.336. Department to cooperate with federal government — information to be provided to certain persons — lead testing of children, strategy to increase number.
33.753. Plan to increase minority business to be provided to the governor and the general assembly, due when.
199.025. Child day care center, authority to organize — how paid for — to be licensed by division of family services — expiration thirty days after transfer of Missouri rehabilitation center to University of Missouri.
620.483. Division of job development and training, criteria — private industry council manual — centralized member orientation session — worker adjustment services — minimum expenditure requirements, job training partnership act.
660.060. Transfer of division of aging to the department of health and senior services.

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

SECTION A. ENACTING CLAUSE. — Sections 3.070, 8.700, 8.110, 8.115, 8.180, 8.200, 8.260, 8.310, 8.315, 8.316, 8.320, 8.325, 8.330, 8.340, 8.350, 8.360, 8.800, 8.830, 8.843, 33.710, 33.750, 33.752, 33.753, 33.756, 34.031, 36.030, 37.005, 37.010, 37.020, 37.110, 43.251, 64.090, 89.020, 135.326, 135.335, 135.339, 143.782, 143.790, 143.1002, 160.545, 160.700, 161.418, 161.424, 167.034, 167.122, 167.123, 169.520, 172.875, 181.110, 186.019, 189.095, 191.737, 191.850, 191.853, 191.855, 191.857, 191.858, 191.859, 191.861, 191.863, 191.865, 191.867, 192.601, 192.935, 193.075, 193.215, 196.1103, 197.312, 197.318, 197.367, 198.018, 198.026, 198.029, 198.077, 198.080, 198.087, 198.090, 198.189, 198.421, 198.428, 198.510, 198.515, 199.025, 205.960, 205.961, 205.962, 205.964, 205.965, 207.010, 207.020, 207.030, 207.070, 207.080, 208.015, 208.030, 208.041, 208.042, 208.047, 208.050, 208.060, 208.070, 208.072, 208.075, 208.080, 208.100, 208.120, 208.125, 208.130, 208.145, 208.150, 208.152, 208.154, 208.157, 208.168, 208.175, 208.176, 208.180, 208.182, 208.190, 208.204, 208.210, 208.217, 208.225, 208.300, 208.325, 208.337, 208.345, 208.400, 208.405, 208.471, 208.477, 208.533, 208.606, 208.609, 208.621, 208.636, 208.780, 209.010, 209.020, 209.030, 209.050, 209.060,

209.070, 209.080, 209.090, 209.100, 209.110, 209.240, 209.251, 210.001, 210.115, 210.165, 210.166, 210.167, 210.192, 210.196, 210.254, 210.481, 210.536, 210.537, 210.543, 210.545, 210.551, 210.560, 210.720, 210.829, 210.830, 210.834, 210.843, 210.846, 210.870, 210.900, 210.950, 211.081, 211.180, 211.183, 211.455, 211.477, 217.575, 226.008, 226.805, 251.100, 251.240, 253.320, 261.010, 285.300, 288.220, 288.270, 301.020, 302.133, 302.134, 302.135, 302.137, 302.171, 302.178, 311.650, 313.210, 320.260, 324.032, 334.125, 338.314, 361.010, 376.819, 452.345, 452.346, 452.347, 452.350, 452.370, 452.416, 453.005, 453.014, 453.015, 453.026, 453.065, 453.070, 453.074, 453.077, 453.102, 453.110, 453.400, 454.400, 454.403, 454.405, 454.408, 454.415, 454.420, 454.425, 454.430, 454.432, 454.433, 454.435, 454.440, 454.445, 454.450, 454.455, 454.460, 454.465, 454.472, 454.478, 454.490, 454.495, 454.496, 454.500, 454.505, 454.513, 454.530, 454.531, 454.565, 454.600, 454.700, 454.853, 454.902, 454.1000, 454.1003, 454.1023, 454.1027, 454.1029, 483.163, 487.080, 487.150, 513.430, 516.350, 577.608, 590.040, 595.030, 595.036, 595.037, 595.060, 610.029, 610.120, 620.010, 620.483, 620.490, 620.556, 620.558, 620.560, 620.562, 620.566, 620.570, 620.572, 620.1100, 620.1580, 630.097, 632.070, 650.005, 660.010, 660.050, 660.053, 660.054, 660.055, 660.057, 660.058, 660.060, 660.062, 660.067, 660.069, 660.070, 660.075, 660.130, 660.225, 660.250, 660.255, 660.260, 660.261, 660.263, 660.265, 660.270, 660.275, 660.280, 660.285, 660.290, 660.295, 660.300, 660.305, 660.310, 660.315, 660.317, 660.320, 660.321, 660.400, 660.403, 660.405, 660.407, 660.409, 660.411, 660.414, 660.416, 660.418, 660.420, 660.523, 660.525, 660.526, 660.600, 660.603, 660.605, 660.608, 660.620, 660.690, and 701.336, RSMo, are repealed and three hundred thirty-seven new sections enacted in lieu thereof, to be known as sections 3.070, 8.110, 8.115, 8.180, 8.200, 8.260, 8.310, 8.315, 8.316, 8.320, 8.325, 8.330, 8.340, 8.350, 8.360, 8.700, 8.800, 8.830, 8.843, 33.710, 34.031, 36.030, 37.005, 37.010, 37.013, 37.014, 37.016, 37.020, 37.110, 43.251, 64.090, 89.020, 135.326, 135.335, 135.339, 143.782, 143.790, 143.1002, 160.545, 160.700, 161.418, 161.424, 161.900, 161.905, 161.910, 161.915, 161.920, 161.925, 161.930, 161.935, 161.940, 161.945, 167.034, 167.122, 167.123, 169.520, 172.875, 181.110, 186.019, 189.095, 191.737, 192.601, 192.1000, 192.1002, 192.1004, 192.1006, 192.1008, 192.1010, 192.1012, 192.1020, 192.1022, 192.1024, 192.1030, 192.1040, 192.1042, 192.1044, 192.1046, 192.1048, 192.1050, 192.1052, 192.1054, 192.1056, 192.1058, 192.1060, 192.1062, 192.1064, 192.1066, 192.1080, 192.1082, 192.1084, 192.1086, 192.1088, 192.1090, 192.1092, 192.1094, 192.1096, 192.1097, 192.1098, 192.1100, 192.1102, 192.1104, 192.1106, 192.1108, 192.1110, 192.1112, 192.1114, 193.075, 193.215, 196.1103, 197.312, 197.318, 197.367, 198.018, 198.026, 198.029, 198.077, 198.080, 198.087, 198.090, 198.189, 198.421, 198.428, 198.510, 198.515, 205.960, 205.961, 205.962, 205.964, 205.965, 207.010, 207.020, 207.022, 207.030, 207.070, 207.080, 208.015, 208.030, 208.041, 208.042, 208.047, 208.050, 208.060, 208.070, 208.072, 208.075, 208.080, 208.100, 208.120, 208.125, 208.130, 208.145, 208.150, 208.152, 208.154, 208.157, 208.168, 208.175, 208.176, 208.180, 208.182, 208.190, 208.204, 208.210, 208.217, 208.225, 208.300, 208.325, 208.337, 208.345, 208.400, 208.405, 208.471, 208.477, 208.533, 208.606, 208.609, 208.621, 208.636, 208.780, 209.010, 209.015, 209.020, 209.030, 209.050, 209.060, 209.070, 209.080, 209.090, 209.100, 209.110, 209.240, 209.251, 210.001, 210.115, 210.165, 210.166, 210.167, 210.192, 210.196, 210.254, 210.481, 210.536, 210.537, 210.543, 210.545, 210.551, 210.560, 210.720, 210.829, 210.830, 210.834, 210.843, 210.846, 210.870, 210.900, 210.950, 211.081, 211.180, 211.183, 211.455, 211.477, 217.575, 226.008, 226.805, 251.100, 251.240, 253.320, 261.010, 285.300, 288.220, 301.020, 302.133, 302.134, 302.135, 302.137, 302.171, 302.178, 311.650, 313.210, 320.260, 324.032, 334.125, 338.314, 361.010, 376.819, 452.345, 452.346, 452.347, 452.350, 452.370, 452.416, 453.005, 453.014, 453.015, 453.026, 453.065, 453.070, 453.074, 453.077, 453.102, 453.110, 453.400, 454.400, 454.403, 454.405, 454.408, 454.415, 454.420, 454.425, 454.430, 454.432, 454.433, 454.435, 454.440, 454.445, 454.450, 454.455, 454.460, 454.465, 454.472, 454.478, 454.490, 454.495, 454.496, 454.500, 454.505, 454.513, 454.530, 454.531, 454.565, 454.600, 454.700, 454.853, 454.902, 454.1000, 454.1003, 454.1023, 454.1027, 454.1029, 483.163, 487.080, 487.150, 513.430, 516.350, 577.608, 590.040, 595.030, 595.036, 595.037,

595.060, 610.029, 610.120, 620.010, 620.484, 620.490, 620.556, 620.558, 620.560, 620.562, 620.566, 620.570, 620.572, 620.1100, 620.1580, 621.275, 630.097, 632.070, 650.005, 660.010, 660.075, 660.130, 660.523, 660.525, 660.526, 660.620, 660.690, and 701.336, to read as follows:

3.070. REVISOR OF STATUTES — APPOINTMENT — DUTIES — OFFICE. — The committee shall appoint and fix the compensation of a revisor of statutes and other attorneys and assistants necessary to the performance of its duties under this chapter. The compensation of the revisor of statutes and his **or her** assistants and expenses incurred in connection with the performance of their duties shall be paid from appropriations made for the committee on legislative research. The revisor of statutes shall be duly licensed to practice law in this state and serves at the pleasure of the committee. The revisor of statutes shall perform all duties required by the committee in connection with its duties under this chapter. He **or she** shall conform to all regulations prescribed for the internal operation of the committee and shall render such assistance to the general assembly in connection with pending or proposed legislation as required by the committee or by any law imposing duties on the committee. He **or she** is subject also in all respects to the law governing other persons appointed or employed by the committee. The division of **facilities management,** design and construction shall provide adequate office space in the capitol building for the revisor of statutes and the attorneys and employees associated with him **or her**.

8.110. DIVISION OF FACILITIES MANAGEMENT, DESIGN AND CONSTRUCTION CREATED, DUTIES. — There is hereby created within the office of administration a "Division of Facilities Management, Design**[**,**]** and Construction", which shall supervise the design, construction, renovations, maintenance, and repair of state facilities, except as provided in sections 8.015 and 8.017, and except those facilities belonging to the institutions of higher education, the highways and transportation commission, and the conservation commission, which shall be responsible to review all requests for appropriations for capital improvements. Except as otherwise provided by law, the director of the division of facilities management, design**[**,**]** and construction shall be responsible for the management and operation of office buildings titled in the name of the governor. The director shall exercise all diligence to ensure that all facilities within his **or her** management and control comply with the designated building codes; that they are clean, safe and secure, and in proper repair; and that they are adequately served by all necessary utilities.

8.115. ARMED SECURITY GUARDS FOR STATE-OWNED OR LEASED FACILITIES, NOT APPLICABLE TO COLE COUNTY. — Notwithstanding the provisions of chapter 571, the office of administration, division of facilities management**, design and construction**, is authorized to provide armed security guards at state-owned or leased facilities except at the seat of government and within the county which contains the seat of government, either through qualified persons employed by the office of administration, or through the use of a contract with a properly licensed firm.

8.180. DIRECTOR TO PAY CERTAIN COSTS. — In all cases where a court or other officer performs any lawful service, at the instance of any director of the division of **facilities management,** design and construction in and about the collection of debts due the state, and the costs have not nor cannot be made out of the defendant, the director of the division of **facilities management,** design and construction shall pay the same fees that other plaintiffs are bound to pay for similar services, and no other.

8.200. DIRECTOR MAY PROCEED AGAINST SHERIFF. — The director of the division of **facilities management,** design and construction shall proceed against any sheriff or peace officer who refuses to perform any duty, in the name of the state, in the same way and to the full extent that any other plaintiff in an action might or could do.

8.260. APPROPRIATIONS OF $100,000 OR MORE FOR BUILDINGS, HOW PAID OUT. — All appropriations made by the general assembly amounting to one hundred thousand dollars or more for the construction, renovation, or repair of facilities shall be expended in the following manner:

(1) The agency requesting payment shall provide the commissioner of administration with satisfactory evidence that a bona fide contract, procured in accordance with all applicable procedures, exists for the work for which payment is requested;

(2) All requests for payment shall be approved by the architect or engineer registered to practice in the state of Missouri who designed the project or who has been assigned to oversee it;

(3) In order to guarantee completion of the contract, the agency or officer shall retain a portion of the contract value in accordance with the provisions of section 34.057;

(4) A contractor may be paid for materials delivered to the site or to a storage facility approved by the director of the division of **facilities management,** design and construction as having adequate safeguards against loss, theft or conversion. In no case shall the amount contracted for exceed the amount appropriated by the general assembly for the purpose.

8.310. DUTIES OF DIRECTOR AS TO CONSTRUCTION, REPAIRS AND PURCHASES — EXCEPTIONS. — Any other provision of law to the contrary notwithstanding, no contracts shall be let for design, repair, renovation or construction without approval of the director of the division of **facilities management,** design and construction, and no claim for design, repair, construction or renovation projects under contract shall be accepted for payment by the commissioner of administration without approval by the director of the division of **facilities management,** design and construction; except that the department of conservation, the boards of curators of the state university and Lincoln University, the several boards of regents of the state colleges and the boards of trustees of the community colleges may contract for architectural and engineering services for the design and supervision of the construction, repair, maintenance or improvement of buildings or institutions and may contract for construction, repair, maintenance or improvement. The director of the division of **facilities management,** design and construction shall not be required to review any claim for payment under any such contract not originally approved by him **or her**. No claim under any contract executed by the department of conservation or an institution of higher learning, as provided above, shall be certified by the commissioner of administration unless the entity making the claim shall certify in writing that the payment sought is in accordance with the contract executed by the entity and that the underlying construction, repair, maintenance or improvement conforms with applicable regulations promulgated by the director pursuant to section 8.320.

8.315. DUTIES OF DIRECTOR, CAPITAL IMPROVEMENT PROJECTS. — The director of **facilities management,** design and construction shall provide technical assistance to the director of the budget with regard to requests for capital improvement appropriations. The director shall review all capital improvement requests, including those made by the institutions of higher learning, the department of conservation or the highway commission, and shall recommend to the director of the budget and the governor those proposals which should be funded.

8.316. DIVISION TO PROMULGATE METHOD TO CALCULATE REPLACEMENT COST OF BUILDINGS OWNED BY PUBLIC INSTITUTIONS OF HIGHER EDUCATION. — The division of **facilities management,** design and construction shall promulgate a method to accurately calculate the replacement cost of all buildings owned by public institutions of higher education. The method shall be developed in cooperation with such institutions and shall include the necessary components and factors to accurately calculate a replacement cost. The division shall utilize a procedure to allow differences to be resolved and may include an alternative calculation where the original cost plus an inflation factor is utilized to determine a replacement cost value.

8.320. DIRECTOR TO PRESCRIBE CONDITIONS AND PROCEDURES FOR REPAIR AND MAINTENANCE OF BUILDINGS. — The director of the division of **facilities management,** design and construction shall set forth reasonable conditions to be met and procedures to be followed in the repair, maintenance, operation, construction and administration of state facilities. The conditions and procedures shall be codified and filed with the secretary of state in accordance with the provisions of the constitution. No payment shall be made on claims resulting from work performed in violation of these conditions and procedures, as certified by the director of the division of **facilities management,** design and construction.

8.325. CAPITAL IMPROVEMENTS, COST ESTIMATES, CONTENT REQUIREMENTS — RENTAL QUARTERS WITH DEFECTIVE CONDITIONS, REOCCUPATION BY STATE AGENCIES, WHEN. — 1. In addition to providing the general assembly with estimates of the cost of completing a proposed capital improvement project, the division of **facilities management,** design and construction shall provide the general assembly, at the same time as the division submits the estimate of the capital improvement costs for the proposed capital improvement project, an estimate of the operating costs of such completed capital improvement project for its first full year of operation. Such estimate shall include, but not be limited to, an estimate of the cost of:

(1) Personnel directly related to the operation of the completed capital improvement project, such as janitors, security, and other persons who would provide necessary services for the completed project or facility;

(2) Utilities for the completed project or facility; and

(3) Any maintenance contracts which would be entered into in order to provide services for the completed project or facility, such as elevator maintenance, boiler maintenance, and other similar service contracts with private contractors to provide maintenance services for the completed project or facility.

2. The costs estimates required by this section shall clearly indicate the additional operating costs of the building or facility due to the completion of the capital improvement project where such proposed project is for an addition to an existing building or facility.

3. Any agency of state government which removes from rental quarters or state-owned buildings because of defective conditions or any other state personnel shall be prevented from reoccupation of those quarters for a period of three years unless such defective conditions are renovated within a reasonable time before reoccupation.

8.330. INFORMATION AS TO CONDITION OF BUILDINGS, COLLECTION, AVAILABILITY. — The director of the division of **facilities management,** design and construction may secure information and data relating to state facilities from all departments and agencies of the state and each department and agency shall furnish information and data when requested by the director of the division of **facilities management,** design and construction. All information and data collected by the director of the division of **facilities management,** design and construction is available at all times to the general assembly upon request.

8.340. DIRECTOR TO KEEP FILE ON STATE LANDS AND CONDITION OF BUILDINGS. — The director of the division of **facilities management,** design and construction shall assemble and maintain complete files of information on the repair, utilization, cost and other data for all state facilities, including power plants, pump houses and similar facilities. He **or she** shall also assemble and maintain files containing a full legal description of all real estate owned by the state and blueprints of all state facilities.

8.350. DIRECTOR TO DELIVER PAPERS AND PROPERTY TO SUCCESSOR. — The director of the division of **facilities management,** design and construction shall deliver to his **or her** successor all property and papers of every kind in his **or her** possession, relative to the affairs

of state, make an inventory thereof, upon which he **or she** shall take a receipt of his **or her** successor, and deliver the same to the secretary of state.

8.360. INSPECTION AND REPORT AS TO CONDITION OF BUILDINGS. — The director of the division of **facilities management,** design and construction shall inspect all facilities and report to the general assembly at the commencement of each regular session on their condition, maintenance, repair and utilization.

8.700. DEFINITIONS. — As used in sections 8.700 to 8.745, unless the context clearly indicates otherwise, the following terms mean:

(1) "Blind person", a person who, after examination by a physician skilled in diseases of the eye or by an optometrist, whichever such person shall select, has been determined to have not more than 20/200 central visual acuity in the better eye with correcting lenses, or an equally disabling loss of the visual field as evidenced by a limitation to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20`;

(2) "Licensing agent", the **[**bureau of**]** **rehabilitation services for** the blind of the **family support** division **[**of family services**]**;

(3) "Vending facility", a location which may sell, at wholesale or retail, food or food products, beverages, confections, newspapers, books, periodicals, tobacco products and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with applicable health laws. A "vending facility" may consist, exclusively or in appropriate combination, of automatic vending machines, cafeterias, snack bars, cart service, shelters, counters and such appropriate equipment as the licensing agent may by regulation prescribe as being necessary for the sale of the articles or services described in this subdivision. A "vending facility" may encompass more than one building.

8.800. DEFINITIONS. — As used in sections 8.800 to 8.825, the following terms mean:

(1) "Builder", the prime contractor that hires and coordinates building subcontractors or if there is no prime contractor, the contractor that completes more than fifty percent of the total construction work performed on the building. Construction work includes, but is not limited to, foundation, framing, wiring, plumbing and finishing work;

(2) "Department", the department of natural resources;

(3) "Designer", the architect, engineer, landscape architect, builder, interior designer or other person who performs the actual design work or is under the direct supervision and responsibility of the person who performs the actual design work;

(4) "District heating and cooling systems", heat pump systems which use waste heat from factories, sewage treatment plants, municipal solid waste incineration, lighting and other heat sources in office buildings or which use ambient thermal energy from sources including temperature differences in rivers to provide regional heating or cooling;

(5) "Division", the division of **facilities management,** design and construction;

(6) "Energy efficiency", the increased productivity or effectiveness of energy resources use, the reduction of energy consumption, or the use of renewable energy sources;

(7) "Gray water", all domestic wastewater from a state building except wastewater from urinals, toilets, laboratory sinks, and garbage disposals;

(8) "Life cycle costs", the costs associated with the initial construction or renovation and the proposed energy consumption, operation and maintenance costs over the useful life of a state building or over the first twenty-five years after the construction or renovation is completed;

(9) "Public building", a building owned or operated by a governmental subdivision of the state, including, but not limited to, a city, county or school district;

(10) "Renewable energy source", a source of thermal, mechanical or electrical energy produced from solar, wind, low-head hydropower, biomass, hydrogen or geothermal sources,

but not from the incineration of hazardous waste, municipal solid waste or sludge from sewage treatment facilities;

(11) "State agency", a department, commission, authority, office, college or university of this state;

(12) "State building", a building owned by this state or an agency of this state;

(13) "Substantial renovation" or "substantially renovated", modifications that will affect at least fifty percent of the square footage of the building or modifications that will cost at least fifty percent of the building's fair market value.

8.830. DEFINITIONS. — For purposes of sections 8.830 to 8.851, the following terms mean:

(1) "Department", the department of natural resources;

(2) "Director", the director of the department of natural resources;

(3) "Division", the division of **facilities management,** design and construction;

(4) "Public building", a building owned or operated by a governmental subdivision of the state, including, but not limited to, a city, county or school district;

(5) "State building", a building owned or operated by the state, a state agency or department, a state college or a state university.

8.843. INTERAGENCY ADVISORY COMMITTEE ON ENERGY COST REDUCTION AND SAVINGS, MEMBERS, DUTIES. — There is hereby established an interagency advisory committee on energy cost reduction and savings. The committee shall consist of the commissioner of administration, the director of the division of **facilities management,** design and construction, the director of the department of natural resources, the director of the environmental improvement and energy resources authority, the director of the division of energy, the director of the department of transportation, the director of the department of conservation and the commissioner of higher education. The committee shall advise the department on the development of the minimum energy efficiency standard and state building energy efficiency rating system and shall assist the office of administration in implementing sections 8.833 and 8.835.

33.710. COMMITTEE, COMPOSITION — EXPENSES — OFFICERS. — 1. There is created "The Governmental Emergency Fund Committee" consisting of the governor, the commissioner of administration, the chairman and ranking minority member of the senate appropriations committee, the chairman and ranking minority member of the house **[**appropriations**]** **budget** committee**, or its successor committee,** and the director of the division of **facilities management,** design and construction who shall serve as consultant to the committee without vote.

2. The members of the committee shall serve without compensation but shall be reimbursed for actual and necessary expenses incurred by them in the performance of their official duties.

3. The committee shall elect from among its members a chairman and vice chairman and such other officers as it deems necessary.

34.031. RECYCLED PRODUCTS, PREFERENCE FOR PRODUCTS MADE FROM SOLID WASTE — ELIMINATION OF PURCHASE OF PRODUCTS MADE FROM POLYSTYRENE FOAM — COMMISSIONER OF ADMINISTRATION, DUTIES — REPORT. — 1. The commissioner of administration, in consultation with the environmental improvement and energy resources authority of the department of natural resources, shall give full consideration to the purchase of products made from materials recovered from solid waste and to the reduction and ultimate elimination of purchases of products manufactured in whole or in part of thermoformed or other extruded polystyrene foam manufactured using any fully halogenated chlorofluorocarbon (CFC). Products that utilize recovered materials of a price and quality comparable to products made from virgin materials shall be sought and purchased, with particular emphasis on recycled oil,

retread tires, compost materials and recycled paper products. The commissioner shall exercise a preference for such products if their use is technically feasible and, where a bid is required, their price is equal to, or less than, the price of items which are manufactured or produced from virgin materials. Products that would be inferior, violate safety standards or violate product warranties if the provisions of this section are followed may be excluded from the provisions of this section.

2. The commissioner of administration shall:

(1) Review the procurement specifications in order to eliminate discrimination against the procurement of recycled products;

(2) Review and modify the contract specifications for paper products and increase the minimum required percentage of recycled paper in each product as follows:

(a) Forty percent recovered materials for newsprint;

(b) Eighty percent recovered materials for paperboard;

(c) Fifty percent waste paper in high grade printing and writing paper;

(d) Five to forty percent in tissue products;

(3) Support federal incentives and policy guidelines designed to promote these goals;

(4) Develop and implement a cooperative procurement policy to facilitate bulk order purchases and to increase availability of recycled products. The policy shall be distributed to all state agencies and shall be made available to political subdivisions of the state;

(5) Conduct a survey using existing staff of those items customarily required by the state that are manufactured in whole or part from polystyrene plastic, and report its findings, together with an analysis of environmentally acceptable alternatives thereto, prepared in collaboration with the department of natural resources, to the general assembly and every state agency within six months of August 28, 1995.

3. Notwithstanding the provisions of this section, no state agency may purchase any food or beverage containers or wrapping manufactured from any polystyrene foam manufactured using any fully halogenated chlorofluorocarbon (CFC) found by the United States Environmental Protection Agency (EPA) to be an ozone-depleting chemical.

4. No state agency may purchase any items made in whole or part of thermoformed or other extruded polystyrene foam manufactured using any fully halogenated chlorofluorocarbon (CFC) found by the United States Environmental Protection Agency (EPA) to be an ozone-depleting chemical without approval from the commissioner of administration. Approval shall not be granted unless the purchasing agency demonstrates to the satisfaction of the director of the department of natural resources and the commissioner that there is no environmentally more acceptable alternatives or the quality of such alternatives is not adequate for the purpose intended.

5. For each paper product type and corresponding recycled paper content standard pursuant to subdivision (2) of subsection 2 of this section, attainment goals for the percentage of paper products to be purchased that utilize post-consumer recovered materials shall be:

(1) Ten percent in 1991 and 1992;

(2) Twenty-five percent in 1993 and 1994;

(3) Forty percent in 1995; and

(4) Sixty percent by 2000.

6. In the review of capital improvement projects for buildings and facilities of state government, the commissioner of administration shall direct the division of **facilities management,** design and construction to give full consideration to alternatives which use solid waste, as defined in section 260.200, as a fuel for energy production or which use products composed of materials recovered from solid waste.

7. The commissioner of administration, in consultation with the environmental improvement and energy resources authority of the department of natural resources, shall prepare and provide by January first of each year an annual report summarizing past activities and accomplishments of the program and proposed goals of the program including projections for

each affected agency. The report shall also include a list of products utilizing recovered materials that could substitute for products currently purchased and a schedule of amounts purchased of products utilizing recovered materials compared to purchases of similar products utilizing virgin materials for the period covered by the annual report.

8. The office of administration, department of natural resources and department of economic development shall cooperate jointly and share to the greatest extent possible, information and other resources to promote:

(1) Producers or potential producers of secondary material goods to expand or develop their product lines;

(2) Increased demand for secondary materials recovered in Missouri; and

(3) Increased demand by state government for products which contain secondary materials recovered in Missouri.

9. The commissioner of administration may increase minimum recycled content percentages for paper products, minimum recycled content percentages for other recycled products and establish minimum post-consumer content as such products become available. The preference provided in subsection 1 of this section shall apply to the minimum standards established by the commissioner.

36.030. PERSONNEL, ADMINISTRATION OF MERIT SYSTEM — AGENCIES AFFECTED — EXEMPTIONS — EMPLOYEE SUGGESTIONS, AWARDS AUTHORIZED. — 1. A system of personnel administration based on merit principles and designed to secure efficient administration is established for all offices, positions and employees, except attorneys, of the department of social services, the department of corrections, the department of health and senior services, the department of natural resources, the department of mental health, the division of personnel and other divisions and units of the office of administration, the division of employment security, mine safety and on-site consultation sections of the division of labor standards and administration operations of the department of labor and industrial relations, the division of tourism and **[**job development and training**]** **division of workforce development**, the Missouri housing development commission, and the office of public counsel of the department of economic development, the Missouri veterans commission, capitol police and state emergency management agency of the department of public safety, such other agencies as may be designated by law, and such other agencies as may be required to maintain personnel standards on a merit basis by federal law or regulations for grant-in-aid programs; except that, the following offices and positions of these agencies are not subject to this chapter and may be filled without regard to its provisions:

(1) Other provisions of the law notwithstanding, members of boards and commissions, departmental directors, five principal assistants designated by the departmental directors, division directors, and three principal assistants designated by each division director; except that, these exemptions shall not apply to the division of personnel;

(2) One principal assistant for each board or commission, the members of which are appointed by the governor or by a director of the department;

(3) Chaplains and attorneys regularly employed or appointed in any department or division subject to this chapter, except as provided in section 36.031;

(4) Persons employed in work assignments with a geographic location principally outside the state of Missouri and other persons whose employment is such that selection by competitive examination and standard classification and compensation practices are not practical under all the circumstances as determined by the board by rule;

(5) Patients or inmates in state charitable, penal and correctional institutions who may also be employees in the institutions;

(6) Persons employed in an internship capacity in a state department or institution as a part of their formal training, at a college, university, business, trade or other technical school; except that, by appropriate resolution of the governing authorities of any department or institution, the

personnel division may be called upon to assist in selecting persons to be appointed to internship positions;

(7) The administrative head of each state medical, penal and correctional institution, as warranted by the size and complexity of the organization and as approved by the board;

(8) Deputies or other policy-making assistants to the exempt head of each division of service, as warranted by the size or complexity of the organization and in accordance with the rules promulgated by the personnel advisory board;

(9) Special assistants as designated by an appointing authority; except that, the number of such special assistants shall not exceed one percent of a department's total authorized full-time equivalent workforce;

(10) Merit status shall be retained by present incumbents of positions identified in this section which have previously been subject to this chapter.

2. All positions in the executive branch transferred to coverage pursuant to this chapter where incumbents of such positions have at least twelve months' prior service on the effective date of such transfer shall have incumbency preference and shall be permitted to retain their positions, provided they meet qualification standards acceptable to the division of personnel of the office of administration. An employee with less than twelve months of prior service on the effective date of such transfer or an employee who is appointed to such position after the effective date of such transfer and prior to the classification and allocation of the position by the division of personnel shall be permitted to retain his or her position, provided he or she meets acceptable qualification standards and subject to successful completion of a working test period which shall not exceed twelve months of total service in the position. After the allocation of any position to an established classification, such position shall thereafter be filled only in accordance with all provisions of this chapter.

3. The system of personnel administration governs the appointment, promotion, transfer, layoff, removal and discipline of employees and officers and other incidents of employment in divisions of service subject to this chapter, and all appointments and promotions to positions subject to this chapter shall be made on the basis of merit and fitness.

4. To encourage all state employees to improve the quality of state services, increase the efficiency of state work operations, and reduce the costs of state programs, the director of the division of personnel shall establish employee recognition programs, including a statewide employee suggestion system. The director shall determine reasonable rules and shall provide reasonable standards for determining the monetary awards, not to exceed five thousand dollars, under the employee suggestion system. Awards shall be made from funds appropriated for this purpose.

5. At the request of the senate or the house of representatives, the commissioner of administration shall submit a report on the employee suggestion award program described in subsection 4 of this section.

37.005. POWERS AND DUTIES, GENERALLY. — 1. Except as provided herein, the office of administration shall be continued as set forth in house bill 384, seventy-sixth general assembly and shall be considered as a department within the meaning used in the Omnibus State Reorganization Act of 1974. The commissioner of administration shall appoint directors of all major divisions within the office of administration.

2. The commissioner of administration shall be a member of the governmental emergency fund committee as ex officio comptroller and the director of the department of revenue shall be a member in place of the **[**chief of the planning and construction division**]** **director of the division of facilities management, design and construction**.

3. The office of administration is designated the "Missouri State Agency for Surplus Property" as required by Public Law 152, eighty-first Congress as amended, and related laws for disposal of surplus federal property. All the powers, duties and functions vested by sections 37.075 and 37.080, and others, are transferred by type I transfer to the office of administration

as well as all property and personnel related to the duties. The commissioner shall integrate the program of disposal of federal surplus property with the processes of disposal of state surplus property to provide economical and improved service to state and local agencies of government. The governor shall fix the amount of bond required by section 37.080. All employees transferred shall be covered by the provisions of chapter 36 and the Omnibus State Reorganization Act of 1974.

4. The commissioner of administration shall replace the director of revenue as a member of the board of fund commissioners and assume all duties and responsibilities assigned to the director of revenue by sections 33.300 to 33.540 relating to duties as a member of the board and matters relating to bonds and bond coupons.

5. All the powers, duties and functions of the administrative services section, section 33.580 and others, are transferred by a type I transfer to the office of administration and the administrative services section is abolished.

6. The commissioner of administration shall, in addition to his or her other duties, cause to be prepared a comprehensive plan of the state's field operations, buildings owned or rented and the communications systems of state agencies. Such a plan shall place priority on improved availability of services throughout the state, consolidation of space occupancy and economy in operations.

7. The commissioner of administration shall from time to time examine the space needs of the agencies of state government and space available and shall, with the approval of the board of public buildings, assign and reassign space in property owned, leased or otherwise controlled by the state. Any other law to the contrary notwithstanding, upon a determination by the commissioner that all or part of any property is in excess of the needs of any state agency, the commissioner may lease such property to a private or government entity. Any revenue received from the lease of such property shall be deposited into the fund or funds from which moneys for rent, operations or purchase have been appropriated. The commissioner shall establish by rule the procedures for leasing excess property.

8. The commissioner of administration is hereby authorized to coordinate and control the acquisition and use of **[**electronic data processing (EDP) and automatic data processing (ADP)**]** **network, telecommunications, and data processing services** in the executive branch of state government. For this purpose, the office of administration will have authority to:

(1) Develop and implement a long-range computer facilities plan for the use of **[**EDP and ADP**]** **network, telecommunications, and data processing services** in Missouri state government. Such plan may cover, but is not limited to, operational standards, standards for the establishment, function and management of service centers, coordination of the data processing education, and planning standards for application development and implementation;

(2) Approve all additions and deletions of **[**EDP and ADP**]** **network, telecommunications, and data processing services** hardware, software, and support services, and service centers;

(3) Establish standards for the development of annual data processing application plans for each of the service centers. These standards shall include review of post-implementation audits. These annual plans shall be on file in the office of administration and shall be the basis for equipment approval requests;

(4) Review of all state **[**EDP and ADP**]** **network, telecommunications, and data processing services** applications to assure conformance with the state information systems plan, and the information systems plans of state agencies and service centers;

(5) Establish procurement procedures for **[**EDP and ADP**]** **network, telecommunications, and data processing services** hardware, software, and support service;

(6) Establish a charging system to be used by all service centers when performing work for any agency;

(7) Establish procedures for the receipt of service center charges and payments for operation of the service centers. The commissioner shall maintain a complete inventory of all state-owned or -leased **[**EDP and ADP**]** **network, telecommunications, and data processing**

services equipment, and annually submit a report to the general assembly which shall include starting and ending **[**EDP and ADP**]** **network, telecommunications, and data processing services** costs for the fiscal year previously ended, and the reasons for major increases or variances between starting and ending costs. The commissioner shall also adopt, after public hearing, rules and regulations designed to protect the rights of privacy of the citizens of this state and the confidentiality of information contained in computer tapes or other storage devices to the maximum extent possible consistent with the efficient operation of the office of administration and contracting state agencies.

9. Except as provided in subsection 12 of this section, the fee title to all real property now owned or hereafter acquired by the state of Missouri, or any department, division, commission, board or agency of state government, other than real property owned or possessed by the state highways and transportation commission, conservation commission, state department of natural resources, and the University of Missouri, shall on May 2, 1974, vest in the governor. The governor may not convey or otherwise transfer the title to such real property, unless such conveyance or transfer is first authorized by an act of the general assembly. The provisions of this subsection requiring authorization of a conveyance or transfer by an act of the general assembly shall not, however, apply to the granting or conveyance of an easement to any rural electric cooperative as defined in chapter 394, municipal corporation, quasi-governmental corporation owning or operating a public utility, or a public utility, except railroads, as defined in chapter 386. The governor, with the approval of the board of public buildings, may, upon the request of any state department, agency, board or commission not otherwise being empowered to make its own transfer or conveyance of any land belonging to the state of Missouri which is under the control and custody of such department, agency, board or commission, grant or convey without further legislative action, for such consideration as may be agreed upon, easements across, over, upon or under any such state land to any rural electric cooperative, as governed in chapter 394, municipal corporation, or quasi-governmental corporation owning or operating a public utility, or a public utility, except railroad, as defined in chapter 386. The easement shall be for the purpose of promoting the general health, welfare and safety of the public and shall include the right of ingress or egress for the purpose of constructing, maintaining or removing any pipeline, power line, sewer or other similar public utility installation or any equipment or appurtenances necessary to the operation thereof, except that railroad as defined in chapter 386 shall not be included in the provisions of this subsection unless such conveyance or transfer is first authorized by an act of the general assembly. The easement shall be for such consideration as may be agreed upon by the parties and approved by the board of public buildings. The attorney general shall approve the form of the instrument of conveyance. The commissioner of administration shall prepare management plans for such properties in the manner set out in subsection 7 of this section.

10. The commissioner of administration shall administer a revolving "Administrative Trust Fund" which shall be established by the state treasurer which shall be funded annually by appropriation and which shall contain moneys transferred or paid to the office of administration in return for goods and services provided by the office of administration to any governmental entity or to the public. The state treasurer shall be the custodian of the fund, and shall approve disbursements from the fund for the purchase of goods or services at the request of the commissioner of administration or the commissioner's designee. The provisions of section 33.080 notwithstanding, moneys in the fund shall not lapse, unless and then only to the extent to which the unencumbered balance at the close of any fiscal year exceeds one-eighth of the total amount appropriated, paid, or transferred to the fund during such fiscal year, and upon approval of the oversight division of the joint committee on legislative research. The commissioner shall prepare an annual report of all receipts and expenditures from the fund.

11. All the powers, duties and functions of the department of community affairs relating to statewide planning are transferred by type I transfer to the office of administration.

12. The titles which are vested in the governor by or pursuant to this section to real property assigned to any of the educational institutions referred to in section 174.020 on June 15, 1983, are hereby transferred to and vested in the board of regents of the respective educational institutions, and the titles to real property and other interests therein hereafter acquired by or for the use of any such educational institution, notwithstanding provisions of this section, shall vest in the board of regents of the educational institution. The board of regents may not convey or otherwise transfer the title to or other interest in such real property unless the conveyance or transfer is first authorized by an act of the general assembly, except as provided in section 174.042, and except that the board of regents may grant easements over, in and under such real property without further legislative action.

13. Notwithstanding any provision of subsection 12 of this section to the contrary, the board of governors of Missouri Western State University, University of Central Missouri, Missouri State University, or Missouri Southern State University, or the board of regents of Southeast Missouri State University, Northwest Missouri State University, or Harris-Stowe State University, or the board of curators of Lincoln University may convey or otherwise transfer for fair market value, except in fee simple, the title to or other interest in such real property without authorization by an act of the general assembly. The provisions of this subsection shall expire August 28, 2017.

14. All county sports complex authorities, and any sports complex authority located in a city not within a county, in existence on August 13, 1986, and organized under the provisions of sections 64.920 to 64.950, are assigned to the office of administration, but such authorities shall not be subject to the provisions of subdivision (4) of subsection 6 of section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo, as amended.

15. All powers, duties, and functions vested in the administrative hearing commission, sections 621.015 to 621.205 and others, are transferred to the office of administration by a type III transfer.

37.010. COMMISSIONER OF ADMINISTRATION, COMPENSATION, OATH OF OFFICE, DUTIES — VACANCY, GOVERNOR TO SERVE. — 1. The governor, by and with the advice and consent of the senate, shall appoint a commissioner of administration, who shall head the "Office of Administration" which is hereby created. The commissioner of administration shall receive a salary as provided by law and shall also receive his **or her** actual and necessary expenses incurred in the discharge of his **or her** official duties. Before taking office, the commissioner of administration shall take and subscribe an oath or affirmation to support the Constitution of the United States and of this state, and to demean himself **or herself** faithfully in office. **[**He**]** **The commissioner** shall also deposit with the governor a bond, with sureties to be approved by the governor, in the amount to be determined by the governor payable to the state of Missouri, conditioned on the faithful performance of the duties of his **or her** office. The premium of this bond shall be paid out of the appropriation for the office of the governor.

2. The governor shall appoint the commissioner of administration with the advice and consent of the senate. The commissioner shall be at least thirty years of age and must have been a resident and qualified voter of this state for the five years next preceding his appointment. He **or she** must be qualified by training and experience to assume the managerial and administrative functions of the office of commissioner of administration.

3. The commissioner of administration shall, by virtue of his **or her** office, without additional compensation, head the division of budget, the division of purchasing, the division of **facilities management,** design and construction, and the **information technology services** division **[**of electronic data processing coordination**]**. Whenever provisions of the constitution grant powers, impose duties or make other reference to the comptroller, they shall be construed as referring to the commissioner of administration.

4. The commissioner of administration shall provide the governor with such assistance in the supervision of the executive branch of state government as the governor requires and shall

perform such other duties as are assigned to him **or her** by the governor or by law. The commissioner of administration shall work with other departments of the executive branch of state government to promote economy, efficiency and improved service in the transaction of state business. The commissioner of administration, with the approval of the governor, shall organize the work of the office of administration in such manner as to obtain maximum effectiveness of the personnel of the office. He may consolidate, abolish or reassign duties of positions or divisions combined within the office of administration, except for the division of personnel. He **or she** may delegate specific duties to subordinates. These subordinates shall take the same oath as the commissioner and shall be covered by the bond of the director or by separate bond as required by the governor.

5. The personnel division, personnel director and personnel advisory board as provided in chapter 36 shall be in the office of administration. The personnel director and employees of the personnel division shall perform such duties as directed by the commissioner of administration for personnel work in agencies and departments of state government not covered by the merit system law to upgrade state employment and to improve the uniform quality of state employment.

6. The commissioner of administration shall prepare a complete inventory of all real estate, buildings and facilities of state government and an analysis of their utilization. Each year he **or she** shall formulate and submit to the governor a long-range plan for the ensuing five years for the repair, construction and rehabilitation of all state properties. The plan shall set forth the projects proposed to be authorized in each of the five years with each project ranked in the order of urgency of need from the standpoint of the state as a whole and shall be upgraded each year. Project proposals shall be accompanied by workload and utilization information explaining the need and purpose of each. Departments shall submit recommendations for capital improvement projects and other information in such form and at such times as required by the commissioner of administration to enable him **or her** to prepare the long-range plan. The commissioner of administration shall prepare the long-range plan together with analysis of financing available and suggestions for further financing for approval of the governor who shall submit it to the general assembly. The long-range plan shall include credible estimates for operating purposes as well as capital outlay and shall include program data to justify need for the expenditures included. The long-range plan shall be extended, revised and resubmitted in the same manner to accompany each executive budget. The appropriate recommendations for the period for which appropriations are to be made shall be incorporated in the executive budget for that period together with recommendations for financing. Each revised long-range plan shall provide a report on progress in the repair, construction and rehabilitation of state properties and of the operating purposes program for the preceding fiscal period in terms of expenditures and meeting program goals.

7. All employees of the office of administration, except the commissioner and not more than three other executive positions designated by the governor in an executive order, shall be subject to the provisions of chapter 36. The commissioner shall appoint all employees of the office of administration and may discharge the employees after proper hearing, provided that the employment and discharge conform to the practices governing selection and discharge of employees in accordance with the provisions of chapter 36.

8. The office of the commissioner of administration shall be in Jefferson City.

9. In case of death, resignation, removal from office or vacancy from any cause in the office of commissioner of administration, the governor shall take charge of the office and superintend the business thereof until a successor is appointed, commissioned and qualified.

[33.750.] 37.013. DEFINITIONS. — As used in this section and section **[**33.752**] 37.014**:

(1) "Commission" refers to the Missouri minority business **[**development**] advocacy** commission established under section **[**33.752**] 37.014**;

(2) "Contract" means any contract awarded by a state agency for construction projects or the procurement of goods or services, including professional services;

(3) "Minority business enterprise" or "minority business" means an individual, partnership, corporation, or joint venture of any kind that is owned and controlled by one or more persons who are:

(a) United States citizens; and

(b) Members of a racial minority group;

(4) "Owned and controlled" means having:

(a) Ownership of at least fifty-one percent of the enterprise, including corporate stock of a corporation;

(b) Control over the management and day-to-day operations of the business; and

(c) An interest in the capital, assets, and profits and losses of the business proportionate to the percentage of ownership;

(5) "Racial minority group" means:

(a) Blacks;

(b) American Indians;

(c) Hispanics;

(d) Asian Americans; and

(e) Other similar racial minority groups;

(6) "State agency" refers to an authority, board, branch, commission, committee, department, division, or other instrumentality of the executive branch of state government.

[33.752.] 37.014. MINORITY BUSINESS ADVOCACY COMMISSION ESTABLISHED — MEMBERS — QUALIFICATIONS — TERMS — VACANCY — PER DIEM AND EXPENSES — MEETINGS — DUTIES — STAFF. — 1. There is hereby established the "Missouri Minority Business Advocacy Commission". The commission shall consist of nine members:

(1) The director of the department of economic development;

(2) The commissioner of the office of administration;

(3) Three minority business persons, appointed by the governor, one of whom shall be designated chairman of the commission;

(4) Two members of the house of representatives appointed by the speaker of the house of representatives;

(5) Two members of the senate appointed by the president pro tempore of the senate.

No more than two of the three members appointed by the governor may be of the same political party. Appointed members of the commission shall serve four-year terms, except that of the initial appointments made by the governor, one shall be for a two-year term, one shall be for a three-year term and one shall be for a four-year term. A vacancy occurs if a legislative member leaves office for any reason. Any vacancy on the commission shall be filled in the same manner as the original appointment.

2. **[**The department of economic development and the office of administration shall develop a plan to increase procurements from minority businesses by all state departments and submit that plan to the governor by July, 1994.

3.**]** Each member appointed by the governor shall receive as compensation a per diem of up to thirty-five dollars for each day devoted to the affairs of the commission and be reimbursed for his **or her** actual and necessary expenses incurred in the discharge of his **or her** official duties.

[4.**]** **3.** Each legislative member of the commission is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on interim committees. The allowances specified in this subsection shall be paid from the amounts appropriated for that purpose.

[5.**]** **4.** The commission shall meet at least three times each year and at other times as the chairman deems necessary.

[6.**]** **5.** The duties of the commission shall include, but not be limited to, the following:

(1) Identify minority businesses in the state;

(2) Assess the needs of minority businesses;

(3) Initiate aggressive programs to assist minority businesses in obtaining state contracts and federal agency procurements;

(4) Give special publicity to procurement, bidding, and qualifying procedures;

(5) Include minority businesses on solicitation mailing lists;

(6) Make recommendations regarding policies, programs and procedures to be implemented by the commissioner of the office of administration;

(7) Prepare and maintain timely data on minority business qualified to bid on state and federal procurement projects;

(8) Prepare a review of the commission and the various affected departments of government to be submitted to the governor and the general assembly on March first and October first of each year, evaluating progress made in the areas defined in this subsection;

(9) Provide a focal point and assist and counsel minority small businesses in their dealings with federal, state and local governments regarding the obtaining of business licenses and permits, including, but not limited to, providing ready access to information regarding government requirements which affect minority small business;

(10) Analyze current legislation and regulation as it affects minority business for the purpose of determining methods of elimination or simplification of unnecessary regulatory requirements;

(11) Assist minority businesses in obtaining available technical and financial assistance;

(12) Initiate and encourage minority business education programs, including programs in cooperation with various public and private educational institutions;

(13) Receive complaints and recommendations concerning policies and activities of federal, state and local governmental agencies which affect minority small businesses, and develop, in cooperation with the agency involved, proposals for changes in policies or activities to alleviate any unnecessary adverse effects to minority small business.

[7.**]** **6.** The **[**department of economic development**]** **office of administration** shall furnish administrative support and staff for the effective operation of the commission.

[33.756.] 37.016. MINORITY BUSINESS ADVOCACY COMMISSION TO CONFER WITH DIVISION OF TOURISM ON RULES. — The minority business **[**development**]** **advocacy** commission shall consult with the tourism commission in establishing rules and regulations for African-American and other minority business participation.

37.020. DEFINITIONS — SOCIALLY AND ECONOMICALLY DISADVANTAGED SMALL BUSINESS CONCERNS — PLAN TO INCREASE AND MAINTAIN PARTICIPATION — STUDY — OVERSIGHT REVIEW COMMITTEE, MEMBERS. — 1. As used in this section, the following words and phrases mean:

(1) "Certification", the determination, through whatever procedure is used by the office of administration, that a legal entity is a socially and economically disadvantaged small business concern for purposes of this section;

(2) "Department", the office of administration and any public institution of higher learning in the state of Missouri;

(3) "Minority business enterprise", a business that is:

(a) A sole proprietorship owned and controlled by a minority;

(b) A partnership or joint venture owned and controlled by minorities in which at least fifty-one percent of the ownership interest is held by minorities and the management and daily business operations of which are controlled by one or more of the minorities who own it; or

(c) A corporation or other entity whose management and daily business operations are controlled by one or more minorities who own it, and which is at least fifty-one percent owned by one or more minorities, or if stock is issued, at least fifty-one percent of the stock is owned by one or more minorities;

(4) "Socially and economically disadvantaged individuals", individuals, regardless of gender, who have been subjected to racial, ethnic, or sexual prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities and whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area. In determining the degree of diminished credit and capital opportunities the office of administration shall consider, but not be limited to, the assets and net worth of such individual;

(5) "Socially and economically disadvantaged small business concern", any small business concern:

(a) Which is at least fifty-one percentum owned by one or more socially and economically disadvantaged individuals; or, in the case of any publicly owned business, at least fifty-one percentum of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(b) Whose management and daily business operations are controlled by one or more of such individuals;

(6) "Women's business enterprise", a business that is:

(a) A sole proprietorship owned and controlled by a woman;

(b) A partnership or joint venture owned and controlled by women in which at least fifty-one percent of the ownership interest is held by women and the management and daily business operations of which are controlled by one or more of the women who own it; or

(c) A corporation or other entity whose management and daily business operations are controlled by one or more women who own it, and which is at least fifty-one percent owned by women, or if stock is issued, at least fifty-one percent of the stock is owned by one or more women.

2. The office of administration, in consultation with each department, shall establish and implement a plan to increase and maintain the participation of certified socially and economically disadvantaged small business concerns or minority business enterprises, directly or indirectly, in contracts for supplies, services, and construction contracts, consistent with goals determined after an appropriate study conducted to determine the availability of socially and economically disadvantaged small business concerns and minority business enterprises in the marketplace. **[**Such study shall be completed by December 31, 1991.**]** The commissioner of administration shall appoint an oversight review committee to oversee and review the results of such study. The committee shall be composed of nine members, four of whom shall be members of business, three of whom shall be from staff of selected departments, one of whom shall be a member of the house of representatives, and one of whom shall be a member of the senate.

3. The goals to be pursued by each department under the provisions of this section shall be construed to overlap with those imposed by federal law or regulation, if any, shall run concurrently therewith and shall be in addition to the amount required by federal law only to the extent the percentage set by this section exceeds those required by federal law or regulations.

37.110. INFORMATION TECHNOLOGY SERVICES DIVISION ESTABLISHED. — The commissioner of administration shall establish **[**a data processing unit**]** **the information technology services division** within the office, and this **[**unit**]** **division** shall make recommendations and suggestions to all agencies and departments, and to the general assembly. No state data processing equipment shall be added or disposed of by any state agency by sale, lease or otherwise without the approval of this unit.

43.251. REPORT FORMS — HOW PROVIDED, CONTENTS — APPROVAL BY SUPERINTENDENT. — 1. The **[**Missouri division of highway safety**]** **state highways and transportation commission** shall prepare and upon request supply to police departments, sheriffs, and other appropriate agencies or individuals forms for written accident reports as required by section 43.250 and this section. Reports shall call for sufficiently detailed information to disclose, with reference to a vehicle accident, the cause, conditions then existing and the persons and vehicles involved.

2. Every written or computer-generated accident report required to be made shall be submitted on the appropriate form or in the appropriate computer format approved by the superintendent of the Missouri state highway patrol and shall contain all the information required therein unless not available.

64.090. PLANNING AND ZONING POWERS OF COUNTY COMMISSION — GROUP HOMES CONSIDERED SINGLE-FAMILY DWELLINGS — EXEMPTIONS (CERTAIN COUNTIES OF THE FIRST CLASSIFICATION). — 1. For the purpose of promoting health, safety, morals, comfort or the general welfare of the unincorporated portion of counties, to conserve and protect property and building values, to secure the most economical use of the land, and to facilitate the adequate provision of public improvements all in accordance with a comprehensive plan, the county commission in all counties of the first class, as provided by law, except in counties of the first class not having a charter form of government, is hereby empowered to regulate and restrict, by order, in the unincorporated portions of the county, the height, number of stories and size of buildings, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, the location and use of buildings, structures and land for trade, industry, residence or other purposes, including areas for agriculture, forestry and recreation.

2. The provisions of this section shall not apply to the incorporated portions of the counties, nor to the raising of crops, livestock, orchards, or forestry, nor to seasonal or temporary impoundments used for rice farming or flood irrigation. As used in this section, the term "rice farming or flood irrigation" means small berms of no more than eighteen inches high that are placed around a field to hold water for use for growing rice or for flood irrigation. This section shall not apply to the erection, maintenance, repair, alteration or extension of farm structures used for such purposes in an area not within the area shown on the flood hazard area map. This section shall not apply to underground mining where entrance is through an existing shaft or shafts or through a shaft or shafts not within the area shown on the flood hazard area map.

3. The powers by sections 64.010 to 64.160 given shall not be exercised so as to deprive the owner, lessee or tenant of any existing property of its use or maintenance for the purpose to which it is then lawfully devoted except that reasonable regulations may be adopted for the gradual elimination of nonconforming uses, nor shall anything in sections 64.010 to 64.160 interfere with such public utility services as may have been or may hereafter be specifically authorized or permitted by a certificate of public convenience and necessity, or order issued by the public service commission, or by permit of the county commission.

4. For the purpose of any zoning regulation adopted under the provisions of sections 64.010 to 64.160, the classification of single-family dwelling or single-family residence shall include any home in which eight or fewer unrelated mentally or physically handicapped persons reside, and may include two additional persons acting as houseparents or guardians who need not be related to each other or to any of the mentally or physically handicapped persons. The classification of single-family dwelling or single-family residence shall also include any private residence licensed by the **children's** division **[**of family services**]** or department of mental health to provide foster care to one or more but less than seven children who are unrelated to either foster parent by blood, marriage or adoption. A zoning regulation may require that the exterior appearance of the home and property be in reasonable conformance with the general neighborhood standards and may also establish reasonable standards regarding the density of such individual homes in any specific single-family dwelling or single-family residence area. Should a single-family

dwelling or single-family residence as defined in this subsection cease to operate for the purposes specified in this subsection, any other use of such dwelling or residence, other than that allowed by the zoning regulations, shall be approved by the county board of zoning adjustment. Nothing in this subsection shall be construed to relieve the **children's** division **[**of family services**]**, the department of mental health or any other person, firm or corporation occupying or utilizing any single-family dwelling or single-family residence for the purposes specified in this subsection from compliance with any ordinance or regulation relating to occupancy permits except as to number and relationship of occupants or from compliance with any building or safety code applicable to actual use of such single-family dwelling or single-family residence.

5. Except in subsection 4 of this section, nothing contained in sections 64.010 to 64.160 shall affect the existence or validity of an ordinance which a county has adopted prior to March 4, 1991.

89.020. POWERS OF MUNICIPAL LEGISLATIVE BODY — GROUP HOMES, CLASSIFICATION, STANDARDS, RESTRICTIONS — ENFORCEMENT OF ZONING BEYOND LAKE SHORELINES, WHEN, HOW — FOSTER HOMES, CLASSIFICATIONS OF — CERTAIN MUNICIPALITIES MAY ADOPT COUNTY ZONING REGULATIONS. — 1. For the purpose of promoting health, safety, morals or the general welfare of the community, the legislative body of all cities, towns, and villages is hereby empowered to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, the preservation of features of historical significance, and the location and use of buildings, structures and land for trade, industry, residence or other purposes.

2. For the purpose of any zoning law, ordinance or code, the classification single family dwelling or single family residence shall include any home in which eight or fewer unrelated mentally or physically handicapped persons reside, and may include two additional persons acting as houseparents or guardians who need not be related to each other or to any of the mentally or physically handicapped persons residing in the home. In the case of any such residential home for mentally or physically handicapped persons, the local zoning authority may require that the exterior appearance of the home and property be in reasonable conformance with the general neighborhood standards. Further, the local zoning authority may establish reasonable standards regarding the density of such individual homes in any specific single family dwelling neighborhood.

3. No person or entity shall contract or enter into a contract which would restrict group homes or their location as **[**defined**]** **described** in this section from and after September 28, 1985.

4. Any county, city, town or village which has a population of at least five hundred and whose boundaries are partially contiguous with a portion of a lake with a shoreline of at least one hundred fifty miles shall have the authority to enforce its zoning laws, ordinances or codes for one hundred yards beyond the shoreline which is adjacent to its boundaries. In the event that a lake is not large enough to allow any county, city, town or village to enforce its zoning laws, ordinances or codes for one hundred yards beyond the shoreline without encroaching on the enforcement powers granted another county, city, town or village under this subsection, the counties, cities, towns and villages whose boundaries are partially contiguous to such lake shall enforce their zoning laws, ordinances or orders under this subsection pursuant to an agreement entered into by such counties, cities, towns and villages.

5. Should a single family dwelling or single family residence as defined in subsection 2 of this section cease to operate for the purpose as set forth in subsection 2 of this section, any other use of such home, other than allowed by local zoning restrictions, must be approved by the local zoning authority.

6. For purposes of any zoning law, ordinance or code the classification of single family dwelling or single family residence shall include any private residence licensed by the **children's** division **[**of family services**]** or department of mental health to provide foster care to one or more

but less than seven children who are unrelated to either foster parent by blood, marriage or adoption. Nothing in this subsection shall be construed to relieve the **children's** division **[**of family services**]**, the department of mental health or any other person, firm or corporation occupying or utilizing any single family dwelling or single family residence for the purposes specified in this subsection from compliance with any ordinance or regulation relating to occupancy permits except as to number and relationship of occupants or from compliance with any building or safety code applicable to actual use of such single family dwelling or single family residence.

7. Any city, town, or village that is granted zoning powers under this section and is located within a county that has adopted zoning regulations under chapter 64 may enact an ordinance to adopt by reference the zoning regulations of such county in lieu of adopting its own zoning regulations.

135.326. DEFINITIONS. — As used in sections 135.325 to 135.339, the following terms shall mean:

(1) "Business entity", person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state under the provisions of chapter 148, or an express company which pays an annual tax on its gross receipts in this state pursuant to chapter 153;

(2) "Handicap", a mental, physical, or emotional impairment that substantially limits one or more major life activities, whether the impairment is congenital or acquired by accident, injury or disease, and where the impairment is verified by medical findings;

(3) "Nonrecurring adoption expenses", reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal adoption of a special needs child and which are not incurred in violation of federal, state, or local law;

(4) "Special needs child", a child for whom it has been determined by the **children's** division **[**of family services**]**, or by a child-placing agency licensed by the state, or by a court of competent jurisdiction to be a child:

(a) That cannot or should not be returned to the home of his or her parents; and

(b) Who has a specific factor or condition such as ethnic background, age, membership in a minority or sibling group, medical condition, or handicap because of which it is reasonable to conclude that such child cannot be easily placed with adoptive parents;

(5) "State tax liability", any liability incurred by a taxpayer under the provisions of chapter 143, chapter 147, chapter 148, and chapter 153, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265 and related provisions.

135.335. CREDIT REDUCED, AMOUNT, WHEN. — In the year of adoption and in any year thereafter in which the credit is carried forward pursuant to section 135.333, the credit shall be reduced by an amount equal to the state's cost of providing care, treatment, maintenance and services when:

(1) The special needs child is placed, with no intent to return to the adoptive home, in foster care or residential treatment licensed or operated by the **children's** division **[**of family services**]**, the division of youth services or the department of mental health; or

(2) A juvenile court temporarily or finally relieves the adoptive parents of custody of the special needs child.

135.339. RULES AUTHORIZED, PROCEDURE. — The director of revenue, in consultation with the **children's** division **[**of family services**]**, shall prescribe such rules and regulations

necessary to carry out the provisions of sections 135.325 to 135.339. No rule or portion of a rule promulgated under the authority of sections 135.325 to 135.339 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

143.782. DEFINITIONS. — As used in sections 143.782 to 143.788, unless the context clearly requires otherwise, the following terms shall mean and include:

(1) "Court", the supreme court, court of appeals, or any circuit court of the state;

(2) "Debt", any sum due and legally owed to any state agency which has accrued through contract, subrogation, tort, or operation of law regardless of whether there is an outstanding judgment for that sum, court costs as defined in section 488.010, fines and fees owed, or any support obligation which is being enforced by the **family support** division **[**of family services**]** on behalf of a person who is receiving support enforcement services pursuant to section 454.425, or any claim for unpaid health care services which is being enforced by the department of health and senior services on behalf of a hospital or health care provider under section 143.790;

(3) "Debtor", any individual, sole proprietorship, partnership, corporation or other legal entity owing a debt;

(4) "Department", the department of revenue of the state of Missouri;

(5) "Refund", the Missouri income tax refund which the department determines to be due any taxpayer pursuant to the provisions of this chapter. The amount of a refund shall not include any senior citizens property tax credit provided by sections 135.010 to 135.035 unless such refund is being offset for a delinquency or debt relating to individual income tax or a property tax credit; and

(6) "State agency", any department, division, board, commission, office, or other agency of the state of Missouri, including public community college districts and housing authorities as defined in section 99.020.

143.790. UNPAID HEALTH CARE SERVICES TO HOSPITALS OR HEALTH CARE PROVIDERS, CLAIM MAY BE MADE ON DEBTOR'S TAX REFUND — REMAINDER TO BE DEBT OF DEPARTMENT OF HEALTH AND SENIOR SERVICES. — 1. Any hospital or health care provider who has provided health care services to an individual who was not covered by a health insurance policy or was not eligible to receive benefits under the state's medical assistance program of needy persons, Title XIX, P.L. 89-97, 1965 amendments to the federal Social Security Act, 42 U.S.C. Section 301, et seq., under chapter 208 and the health insurance for uninsured children under sections 208.631 to 208.657 at the time such health care services were administered, and such person has failed to pay for such services for a period greater than ninety days, may submit a claim to the director of the department of health and senior services for the unpaid health care services. The director of the department of health and senior services shall review such claim. If the claim appears meritorious on its face, the claim for the unpaid medical services shall constitute a debt of the department of health and senior services for purposes of sections 143.782 to 143.788, and the director may certify the debt to the department of revenue in order to set off the debtor's income tax refund. Once the debt has been certified, the director of the department of health and senior services shall submit the debt to the department of revenue under the setoff procedure established under section 143.783.

2. At the time of certification, the director of the department of health and senior services shall supply any information necessary to identify each debtor whose refund is sought to be set off pursuant to section 143.784 and certify the amount of the debt or debts owed by each such debtor.

3. If a debtor identified by the director of the department of health and senior services is determined by the department of revenue to be entitled to a refund, the department of revenue shall notify the department of health and senior services that a refund has been set off on behalf of the department of health and senior services for purposes of this section and shall certify the amount of such setoff, which shall not exceed the amount of the claimed debt certified. When

the refund owed exceeds the claimed debt, the department shall send the excess amount to the debtor within a reasonable time after such excess is determined.

4. The department of revenue shall notify the debtor by certified mail the taxpayer whose refund is sought to be set off that such setoff will be made. The notice shall contain the provisions contained in subsection 3 of section **[**143.794**]** **143.784**, including the opportunity for a hearing to contest the setoff provided therein, and shall otherwise substantially comply with the provisions of subsection 3 of section 143.784.

5. Once a debt has been set off and finally determined under the applicable provisions of sections 143.782 to 143.788, and the department of health and senior services has received the funds transferred from the department of revenue, the department of health and senior services shall settle with each hospital or health care provider for the amounts that the department of revenue set off for such party. At the time of each settlement, each hospital or health care provider shall be charged for administration expenses which shall not exceed twenty percent of the collected amount.

6. Lottery prize payouts made under section 313.321 shall also be subject to the setoff procedures established in this section and any rules and regulations promulgated thereto.

7. The director of the department of revenue shall have priority to offset any delinquent tax owed to the state of Missouri. Any remaining refund shall be offset to pay a state agency debt or to meet a child support obligation that is enforced by the **family support** division **[**of family services**]** on behalf of a person who is receiving support enforcement services under section 454.425.

8. The director of the department of revenue and the director of the department of health and senior services shall promulgate rules and regulations necessary to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

143.1002. TAX REFUND CREDITED TO HOME DELIVERED MEALS TRUST FUND — CONTRIBUTIONS ACCEPTED — DIRECTOR OF REVENUE TO TRANSFER CONTRIBUTIONS, TRUST FUND CREATED — STATE TREASURER TO ADMINISTER FUND. — 1. In each tax year beginning on or after January 1, 1993, each individual or corporation entitled to a tax refund in an amount sufficient to make a designation pursuant to this section may designate that two dollars or any amount in excess of two dollars on a single return, and four dollars or any amount in excess of four dollars on a combined return, of the refund due be credited to the elderly home-delivered meals trust fund, established in subsection 3 of this section. The contribution designation authorized by this section shall be clearly and unambiguously printed on each income tax return form provided by this state. If any individual or corporation which is not entitled to a tax refund in an amount sufficient to make a designation pursuant to this section wishes to make a contribution to the **[**division of aging**]** **department of health and senior services** elderly home-delivered meals trust fund, such individual or corporation may, by separate check, draft, or other negotiable instrument, send in with the payment of taxes, or may send in separately, that amount, clearly designated for the **[**division of aging**]** **department of health and senior services** elderly home-delivered meals trust fund, the individual or corporation wishes to contribute and the department of revenue shall forward such amount to the state treasurer for deposit to the fund as provided in subsection 2 of this section.

2. The director of revenue shall transfer at least monthly all contributions designated by individuals or corporations pursuant to this section, less an amount not to exceed five percent of such transferred contributions which is sufficient to cover the cost of collection and handling by

the department of revenue, to the state treasurer for deposit in the state treasury to the credit of the elderly home-delivered meals trust fund. A contribution designated pursuant to this section shall only be transferred and deposited in the elderly home-delivered meals trust fund after all other claims against the refund from which such contribution is to be made have been satisfied.

3. There is hereby established in the state treasury the "Elderly Home-Delivered Meals Trust Fund", which shall consist of all moneys deposited in the fund pursuant to subsection 2 of this section. The state treasurer shall administer the fund, and the moneys in the fund shall be used solely, upon appropriation, by the department of health and senior services for assistance in preparing and transporting meals to elderly persons in this state through a program designed to meet such purposes. These funds shall be transferred by the department to the area agencies on aging using the same formula as used for distribution of federal Older Americans Act moneys and moneys from the general revenue fund. Notwithstanding the provisions of section 33.080 to the contrary, moneys in the elderly home-delivered meals trust fund at the end of any biennium shall not be transferred to the credit of the general revenue fund.

160.545. A+ SCHOOL PROGRAM ESTABLISHED — PURPOSE — RULES — VARIABLE FUND MATCH REQUIREMENT — WAIVER OF RULES AND REGULATIONS, REQUIREMENT — REIMBURSEMENT FOR HIGHER EDUCATION COSTS FOR STUDENTS — EVALUATION — REIMBURSEMENT FOR TWO-YEAR SCHOOLS. — 1. There is hereby established within the department of elementary and secondary education the "A+ Schools Program" to be administered by the commissioner of education. The program shall consist of grant awards made to public secondary schools that demonstrate a commitment to ensure that:

(1) All students be graduated from school;

(2) All students complete a selection of high school studies that is challenging and for which there are identified learning expectations; and

(3) All students proceed from high school graduation to a college or postsecondary vocational or technical school or high-wage job with work place skill development opportunities.

2. The state board of education shall promulgate rules and regulations for the approval of grants made under the program to schools that:

(1) Establish measurable districtwide performance standards for the goals of the program outlined in subsection 1 of this section; and

(2) Specify the knowledge, skills and competencies, in measurable terms, that students must demonstrate to successfully complete any individual course offered by the school, and any course of studies which will qualify a student for graduation from the school; and

(3) Do not offer a general track of courses that, upon completion, can lead to a high school diploma; and

(4) Require rigorous coursework with standards of competency in basic academic subjects for students pursuing vocational and technical education as prescribed by rule and regulation of the state board of education; and

(5) Have a partnership plan developed in cooperation and with the advice of local business persons, labor leaders, parents, and representatives of college and postsecondary vocational and technical school representatives, with the plan then approved by the local board of education. The plan shall specify a mechanism to receive information on an annual basis from those who developed the plan in addition to senior citizens, community leaders, and teachers to update the plan in order to best meet the goals of the program as provided in subsection 1 of this section. Further, the plan shall detail the procedures used in the school to identify students that may drop out of school and the intervention services to be used to meet the needs of such students. The plan shall outline counseling and mentoring services provided to students who will enter the work force upon graduation from high school, address apprenticeship and intern programs, and shall contain procedures for the recruitment of volunteers from the community of the school to serve in schools receiving program grants.

3. A school district may participate in the program irrespective of its accreditation classification by the state board of education, provided it meets all other requirements.

4. By rule and regulation, the state board of education may determine a local school district variable fund match requirement in order for a school or schools in the district to receive a grant under the program. However, no school in any district shall receive a grant under the program unless the district designates a salaried employee to serve as the program coordinator, with the district assuming a minimum of one-half the cost of the salary and other benefits provided to the coordinator. Further, no school in any district shall receive a grant under the program unless the district makes available facilities and services for adult literacy training as specified by rule of the state board of education.

5. For any school that meets the requirements for the approval of the grants authorized by this section and specified in subsection 2 of this section for three successive school years, by August first following the third such school year, the commissioner of education shall present a plan to the superintendent of the school district in which such school is located for the waiver of rules and regulations to promote flexibility in the operations of the school and to enhance and encourage efficiency in the delivery of instructional services in the school. The provisions of other law to the contrary notwithstanding, the plan presented to the superintendent shall provide a summary waiver, with no conditions, for the pupil testing requirements pursuant to section 160.257 in the school. Further, the provisions of other law to the contrary notwithstanding, the plan shall detail a means for the waiver of requirements otherwise imposed on the school related to the authority of the state board of education to classify school districts pursuant to subdivision (9) of section 161.092 and such other rules and regulations as determined by the commissioner of education, except such waivers shall be confined to the school and not other schools in the school district unless such other schools meet the requirements of this subsection. However, any waiver provided to any school as outlined in this subsection shall be void on June thirtieth of any school year in which the school fails to meet the requirements for the approval of the grants authorized by this section as specified in subsection 2 of this section.

6. For any school year, grants authorized by subsections 1 to 3 of this section shall be funded with the amount appropriated for this program, less those funds necessary to reimburse eligible students pursuant to subsection 7 of this section.

7. The **[**commissioner of**]** **department of higher** education shall, by rule **[**and regulation of the state board of education and with the advice of the coordinating board for higher education**]**, establish a procedure for the reimbursement of the cost of tuition, books and fees to any public community college or vocational or technical school or within the limits established in subsection 9 of this section for any two-year private vocational or technical school for any student:

(1) Who has attended a public high school in the state for at least three years immediately prior to graduation that meets the requirements of subsection 2 of this section**[**,**]** **;** except that**,** students who are active duty military dependents, and students who are dependants of retired military who relocate to Missouri within one year of the date of the parent's retirement from active duty, who, in the school year immediately preceding graduation, meet all other requirements of this subsection and are attending a school that meets the requirements of subsection 2 of this section shall be exempt from the three-year attendance requirement of this subdivision; and

(2) Who has made a good faith effort to first secure all available federal sources of funding that could be applied to the reimbursement described in this subsection; and

(3) Who has earned a minimal grade average while in high school as determined by rule of the **[**state board of**]** **department of higher** education, and other requirements for the reimbursement authorized by this subsection as determined by rule and regulation of said board.

8. The commissioner of education shall develop a procedure for evaluating the effectiveness of the program described in this section. Such evaluation shall be conducted

annually with the results of the evaluation provided to the governor, speaker of the house, and president pro tempore of the senate.

9. For a two-year private vocational or technical school to obtain reimbursements under subsection 7 of this section, the following requirements shall be satisfied:

(1) Such two-year private vocational or technical school shall be a member of the North Central Association and be accredited by the Higher Learning Commission as of July 1, 2008, and maintain such accreditation;

(2) Such two-year private vocational or technical school shall be designated as a 501(c)(3) nonprofit organization under the Internal Revenue Code of 1986, as amended;

(3) No two-year private vocational or technical school shall receive tuition reimbursements in excess of the tuition rate charged by a public community college for course work offered by the private vocational or technical school within the service area of such college; and

(4) The reimbursements provided to any two-year private vocational or technical school shall not violate the provisions of Article IX, Section 8, or Article I, Section 7, of the Missouri Constitution or the first amendment of the United States Constitution.

160.700. NATIONAL GUARD PILOT INSTRUCTION PROGRAM — DUTIES — QUALIFICATIONS — FUND. — 1. There is hereby established a pilot program for public middle school students using military training and motivation methods. This program shall be established jointly by the department of elementary and secondary education, the department of social services and the National Guard.

2. The program may include and emphasize appropriate role model examples, adventure training, codes of conduct and policies on discipline as necessary to train students to become personally disciplined.

3. Students in the seventh or eighth grade may apply to attend the program upon recommendation of their school administration, or upon recommendation by local **children's** division **[**of family services**]** counselors.

4. This program shall be a four-week residential program at a National Guard facility during which time military training instructors from the National Guard shall have overall responsibility for the students. Academic instruction shall be provided by the local school system and needed training for the families of the students shall be provided by school counselors or the department of social services.

5. There is hereby established in the state treasury the "National Guard Pilot Instruction Program Fund". The pilot program of public instruction established pursuant to this section shall be funded by moneys from this fund. The fund may receive any grants, gifts, donations and appropriations for the purpose of establishing and operating this program.

161.418. DEPARTMENT TO DEVELOP CRITERIA — APPLICANT PREFERENCE OF SCHOOLS. — 1. The department of **[**elementary and secondary**]** **higher** education shall develop criteria, with input from teacher educators in this state, to select which of the eligible applicants shall receive the scholarships made available under sections 161.415 to 161.424.

2. Students making application for the scholarships provided under sections 161.415 to 161.424 shall indicate their first, second, and third preference as to which of the colleges and universities which have provided the necessary matching funds to participate in the scholarship program established under sections 161.415 to 161.424 they wish to attend. The department of **[**elementary and secondary**]** **higher** education, in conjunction with those colleges and universities which have provided the necessary matching funds, shall develop procedures for matching students eligible for the scholarships provided under sections 161.415 to 161.424 with such colleges and universities.

161.424. RECIPIENTS OF SCHOLARSHIPS TO TEACH IN THIS STATE — TERMS, CONDITIONS — DEFERRAL OF PAYMENTS. — 1. Every student receiving scholarships under

the provisions of sections 161.415 to 161.424 shall teach in an elementary or secondary public school in this state for a period of five years after receiving a degree or the scholarship shall be treated as a loan to the student and interest at the rate of nine and one-half percent per year shall be charged upon the unpaid balance of the amount received from the date the student ceases to teach until the amount received is paid back to the state. For each year that the student teaches up to five years, one-fifth of the amount which was received under sections 161.415 to 161.424 shall be applied against the total amount received and shall not be subject to the repayment requirement of this section.

2. The **[**state board of**]** **department of higher** education shall have the power to and shall defer interest and principal payments under certain circumstances, which shall include, but need not be limited to, the enrollment in a graduate program, service in any branch of the armed forces of the United States, or teaching in areas of critical need as defined by the state board **of education**.

[191.850.] 161.900. DEFINITIONS. — As used in sections **[**191.850 to 191.863**]** **161.900 to 161.945**, the following terms mean:

(1) "Accessibility", compliance with nationally accepted accessibility and usability standards, such as those established in Section 255 of the Telecommunications Act of 1996 and Section 508 of the Workforce Investment Act of 1998;

(2) "Assistive technology device", any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain or improve functional capabilities of individuals with disabilities;

(3) "Assistive technology service", any service that directly assists an individual with a disability in the selection, acquisition or use of an assistive technology device. Such term includes:

(a) The evaluation of the needs of an individual with a disability, including a functional evaluation of the individual in the individual's customary environment;

(b) Purchasing, leasing or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities;

(c) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;

(d) Coordinating and using other therapies, interventions or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(e) Training or technical assistance for an individual with disabilities, or, where appropriate, the family of an individual with disabilities; and

(f) Training or technical assistance for professionals, including individuals providing education and rehabilitation services, employers, or other individuals who provide services to, who employ, or who are otherwise substantially involved in the major life functions of individuals with disabilities;

(4) "Individual with disabilities", any individual who is considered to have a disability or handicap for the purposes of any federal or Missouri law;

(5) "Information technology", any electronic information equipment or interconnected system that is used in the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information, including audio, graphic and text;

(6) "State department or agency", each department, office, board, bureau, commission, or other unit of the executive, legislative or judicial branch of state government, including public four-year and two-year colleges and universities;

(7) "Undue burden", significant difficulty or expense, including, but not limited to, difficulty or expense associated with technical feasibility.

[191.853.] 161.905. ASSISTIVE TECHNOLOGY COUNCIL ESTABLISHED — MEMBERS, QUALIFICATIONS, TERMS, CHAIRPERSON HOW SELECTED — MEETINGS. — 1. The "Missouri Assistive Technology Advisory Council" is hereby established, as created pursuant to the Missouri state grant under Title I of the Technology-Related Assistance for Individuals with Disabilities Act of 1988, P.L. 100-407.

2. The voting membership of the advisory council shall be composed of twenty-three members. **[**The members of the council that are serving on August 28, 1993, shall continue to serve in their normal capacities. The original twenty-one members shall determine by lot which seven are to have a one-year term, which seven are to have a two-year term, and which seven are to have a three-year term. Thereafter,**]** The successors to each of the **original** twenty-one members shall serve a three-year term and until his **or her** successor is appointed by the governor. The members appointed by the governor shall include twelve consumer representatives, the group consisting of individuals with disabilities, parents, spouses, or guardians of individuals with disabilities and shall include a variety of types of disabilities across the age span from all geographic areas of the state, and nine agency representatives, the group consisting of one representative of the division of vocational rehabilitation, one representative of the division of special education, one representative of the department of insurance, financial institutions and professional registration, one representative of rehabilitation services for the blind, one representative of the **MO HealthNet** division **[**of medical services**]**, one representative of the department of health and senior services, one representative of the department of mental health, and two representatives of other agencies or organizations responsible for the service delivery, policy implementation, and funding of assistive technology. In addition, one member who is a member of the house of representatives shall be appointed by the speaker of the house and one member who is a member of the senate shall be appointed by the president pro tempore of the senate. The appointment of individuals representing state agencies shall be conditioned on their continued employment with their respective agencies.

3. A chairperson shall be elected by the council. The council shall meet at the call of the chairperson, but not less often than four times each year.

[191.855.] 161.910. BYLAWS TO BE ADOPTED BY COUNCIL, NO COMPENSATION BUT TO BE PAID EXPENSES. — 1. The council shall adopt written bylaws to govern its activities.

2. Members shall receive no additional compensation for their service to the council, but shall be reimbursed for reasonable and necessary expenses actually incurred in the performance of official duties.

[191.857.] 161.915. COUNCIL ASSIGNED TO AGENCY FOR TECHNOLOGICAL-RELATED ASSISTANCE TO INDIVIDUALS WITH DISABILITIES. — The Missouri assistive technology advisory council is assigned to the lead agency for the Technology-Related Assistance for Individuals with Disabilities Act as designated by the governor so long as funds are available under such act.

[191.858.] 161.920. COUNCIL ASSIGNED TO DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION, WHEN — APPROPRIATION REQUIRED FOR CONTINUED ACTIONS AND STAFF. — At such time that federal funds are no longer provided pursuant to the Technology-Related Assistance for Individuals with Disabilities Act, as amended, the council shall be assigned to the **[**office of administration**] department of elementary and secondary education** as if by a type III transfer, as this term is defined in paragraph (c) of subdivision (1) of subsection 7 of section 1 of the omnibus state reorganization act of 1974. The council may not take any official action after the assignment to the **[**office of administration**] department of elementary and secondary education** unless or until funds are specifically appropriated by line item to fund the actions of the council and to provide the staff and expenses necessary to carry out the official duties and responsibilities of the council.

[191.859.] 161.925. DUTIES OF COUNCIL. — The council shall advocate for assistive technology policies, regulations and programs, and shall establish a consumer-responsive, comprehensive assistive technology service delivery system. The council shall:

(1) Promote awareness of the needs of individuals with disabilities for assistive technology devices and services and the efficacy of providing such devices and services to allow persons with disabilities to be productive and independent;

(2) Gain an understanding of current policies, practices, and procedures that facilitate or impede the availability or provision of assistive technology and recommend methods to streamline such policies;

(3) Research and study data from the major public and private providers of assistive technology regarding numbers and types of devices and services delivered;

(4) Establish interagency coordination mechanisms among state agencies and public and private entities that provide assistive technology devices and services in an effort to eliminate gaps and reduce duplication of such services to individuals with disabilities;

(5) Foster the capacity of public and private entities to provide assistive technology devices and services so that individuals with disabilities of all ages will, to the extent appropriate, be able to secure and maintain possession of assistive technology as needed to function independently and productively;

(6) Recommend and implement specific methods and programs to increase availability of and funding for assistive technology devices and assistive technology services for individuals with disabilities;

(7) Employ staff necessary to implement assistive technology services and programs assigned to the council, with all employees exempt from the state merit system under chapter 36;

(8) Enter into grants or contracts with public or private agencies, schools, or qualified individuals or organizations to deliver federally required or otherwise necessary assistive technology programs and services, including but not limited to assistive device demonstration programs, device recycling programs, device loan programs, financial loan programs, and assistive technology assessments, installation, and usage training for individuals with disabilities, with or without utilizing the procurement procedures of the office of administration;

(9) Administer the assistive technology trust fund created in section **[**191.861**]** **161.930**, including the formation of a not-for-profit corporation that qualifies as a Section 501(c)(3) organization under the Internal Revenue Code of 1986, as amended;

(10) Accept, administer, and disburse federal moneys as the lead agency for the federal Assistive Technology Act of 2004, P.L. 108-364, and any amendments or successors thereto, as well as moneys from the assistive technology trust fund created in section **[**191.861**]** **161.930**, and any other moneys appropriated, granted, or given for the purpose of implementing assistive technology programs and services; and

(11) Report annually by January first to the governor and the general assembly on council activities and the results of its studies, programs, services, and recommendations to increase access to assistive technology.

[191.861.] 161.930. ASSISTIVE TECHNOLOGY TRUST FUND CREATED, USE OF MONEYS. — 1. There is hereby created in the state treasury the "Assistive Technology Trust Fund" which shall be a public/private partnership fund administered by the advisory assistive technology council. The fund shall consist of gifts, donations, grants, and bequests from individuals, private organizations, foundations, or other sources granted or given for the specific purpose of assistive technology, and moneys transferred or paid to the council in return for goods and services provided by the council.

2. Upon appropriation, moneys in the fund shall be used to establish and maintain assistive technology programs and services provided by the council under section **[**191.859**]** **161.925** and shall not be used to supplant any existing program or service.

3. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

4. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

[191.863.] 161.935. COUNCIL TO ASSURE COMPLIANCE WITH FEDERAL ACCESSIBILITY LAWS — DUTIES OF COUNCIL TO ASSURE ACCESSIBILITY. — 1. The council shall work in conjunction with the office of information technology **services division** to assure state compliance with the provisions of Section 508 of the Workforce Investment Act of 1998 regarding accessibility of information technology for individuals with disabilities.

2. When developing, procuring, maintaining or using information technology, or when administering contracts or grants that include the procurement, development, or upgrading of information technology, each state department or agency shall ensure, unless an undue burden would be imposed on the department or agency, that the information technology allows employees, program participants and members of the general public access to and use of information and data that is comparable to the access by individuals without disabilities.

3. To assure accessibility, the council and the office of information technology **services division** shall:

(1) Adopt accessibility standards to be used by each state department or agency in the procurement of information technology, and in the development and implementation of custom-designed information technology systems, websites and other emerging information technology systems;

(2) Establish and implement a review procedure to be used to evaluate the accessibility of custom-designed information technology systems proposed by a state department or agency prior to expenditure of state funds;

(3) Review and evaluate accessibility of information technology commonly purchased by state departments and agencies, and provide accessibility reports on such products to those responsible for purchasing decisions;

(4) Provide training and technical assistance for state departments and agencies to assure procurement of information technology that meets adopted accessibility standards;

(5) Involve individuals with disabilities in accessibility reviews of information technology and in the delivery of training and technical assistance;

(6) Establish complaint procedures, consistent with Section 508 of the Workforce Development Act of 1998 to be used by an individual with a disability who alleges that a state department or agency fails to comply with the provisions of this section.

[191.865.] 161.940. ASSISTIVE TECHNOLOGY LOAN PROGRAM CREATED — COUNCIL TO PROMULGATE RULES TO ENFORCE. — 1. The Missouri assistive technology advisory council, established in section **[**191.853**]** **161.905**, shall establish an assistive technology loan program. The loan program shall be funded from the assistive technology loan revolving fund established pursuant to section **[**191.867**]** **161.945**. The fund shall receive any appropriation and grant moneys received pursuant to subsection 2 of this section to provide loans for the purchase of assistive technology devices and services, as defined in section **[**191.850**]** **161.900**.

2. The loan program shall provide loans for the first fiscal year following appropriation. Any matching grant moneys received by the state pursuant to Title III of the federal Assistive Technology Act of 1998 or through any other applicable sources shall be used to fund the loan program. The state treasurer shall provide the assistive technology advisory council with information on the amount of moneys in the assistive technology loan revolving fund at the beginning of each fiscal year. The council shall quarterly expend such moneys in four equal shares to ensure that the loan program will provide loans throughout the entire fiscal year. Any repayments or interest earned during a fiscal year shall not be used for loans in the current fiscal year, but shall be carried over for use in the next fiscal year.

3. The interest rates for loans shall be lower than comparable commercial lending rates and shall be established by the council based on the borrower's ability to pay. Loans may be made with no interest. Loan repayment periods shall not exceed ten years.

4. The council shall:

(1) Promulgate rules relating to borrower eligibility, interest rates, repayment terms and other matters necessary to implement the purpose of this section, including limits on the number and amounts of loans to assure the continued solvency of the fund; and

(2) File annual reports with the governor and general assembly which shall include an accounting of the loans and repayments to the fund during the preceding fiscal year.

5. The council may enter into contracts as necessary to carry out the purposes of this section, including but not limited to contracts with disability organizations and lending institutions.

6. By no later than January 1, 2001, the council shall submit a report to the general assembly regarding any rules proposed or promulgated for the implementation of this program.

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

[191.867.] 161.945. ASSISTIVE TECHNOLOGY LOAN REVOLVING FUND ESTABLISHED. — 1. In order to allow Missourians with disabilities to take advantage of Title III of the federal Assistive Technology Act of 1998, there is hereby created in the state treasury the "Assistive Technology Loan Revolving Fund" which shall be administered by the Missouri assistive technology advisory council and the state treasurer.

2. Moneys in the fund shall, upon appropriation, be used to establish and maintain the assistive technology loan program established in section **[**191.865**] 161.940**.

3. The fund shall consist of any moneys appropriated to the fund, repayments of principal and interest by qualified borrowers, and interest earned on the moneys in the fund.

4. The fund may accept federal, state and other public funds, public or private grants, contributions and loans to the fund with the approval of the Missouri assistive technology advisory council.

5. Notwithstanding the provisions of section 33.080 to the contrary, moneys in the fund shall not revert to the general revenue fund at the end of the biennium.

167.034. ABSENCES IN ST. LOUIS CITY REPORTED TO CHILDREN'S DIVISION, WHEN, NOTIFICATION REQUIREMENTS — DUTIES OF CHILDREN'S DIVISION. — 1. In any city not within a county where a child under the age of seventeen required to attend school under section 167.031 accumulates fifteen or more absences during any one school year, the child's school district shall report such absences to the **[**division of family services,**]** children's division**[**,**]** within ten business days of the fifteenth day of absence. Such notification, which shall be in written form and retained in the student's school records, shall include:

(1) The student's full name and parents' or guardians' full names;

(2) The addresses and phone numbers of the student and parents or guardians;

(3) The student's date of birth and age;

(4) The student's current school and grade level;

(5) The student's current grades for all classes in which the student is enrolled; and

(6) The total number of days missed and specific days missed from school.

2. Upon receipt of a report of the absences of a child under this section, the children's division shall notify the child's parent or guardian that the child has accumulated fifteen or more absences and such report may be subject to the educational neglect provisions under section 210.145. The notification required under this section is required regardless of whether a student's parent or guardian contacted the school and approved of the absences.

167.122. PLACED PUPILS, NOTIFICATION OF DISTRICT, DISTRIBUTION OF INFORMATION. — 1. Notwithstanding any provisions of chapter 211 or chapter 610 to the contrary the juvenile

officer or an employee of the **children's** division **[**of family services**]** shall notify the school district that a child under judicial custody pursuant to subsection 3 of section 211.031 is being enrolled in that district or that a child already enrolled has been taken into judicial custody.

2. The notification shall be given to the superintendent of schools or a designee, either orally or in writing, at the time of enrollment or no later than five days following the court taking custody of the child under subsection 3 of section 211.031. If the report is made orally, written notice shall follow in a timely manner. The notification shall describe any conduct that involved physical force with the intent to do serious bodily harm to another person but shall not include the name of any victim other than the child.

3. The superintendent or a designee is authorized to share this information with teachers and other school district employees with a need to know while acting within the scope of their assigned duties pursuant to subsection 2 of section 160.261. Any information received by school district officials pursuant to this section shall be received in confidence and used for the limited purposes of assuring that good order and discipline is maintained in the school, or for intervention and counseling purposes for the benefit of the child. The information shall not be part of the child's permanent record. The information shall not be used as the sole basis for denying educational services to a pupil.

167.123. NOTIFICATION TO SUPERINTENDENT, WHEN, MANNER — RESPONSIBILITY OF SUPERINTENDENT UPON NOTIFICATION — CONFIDENTIALITY OF INFORMATION. — 1. Notwithstanding any other provisions of this chapter, or chapter 610, to the contrary, the juvenile officer or an employee of the **children's** division **[**of family services**]** shall notify the superintendent of the school district in which the child is enrolled, or the superintendent's designee, upon request by the superintendent or designee regarding such child, when a case is active regarding the child.

2. The notification shall be made orally or in writing, in a timely manner, no later than five days following the request by the superintendent or designee. If the report is made orally, written notice shall follow in a timely manner. The notification shall include a complete description of the case involving the pupil, the conduct the child is alleged to have committed, if any, and the dates the conduct occurred but shall not include the name of any victim other than the child.

3. The superintendent or the designee of the superintendent shall report such information to teachers and other school district employees with a need to know while acting within the scope of their assigned duties. Any information received by school district officials pursuant to this section shall be received in confidence and used for the limited purposes of assuring that good order and discipline is maintained in the school, or for intervention and counseling purposes for the benefit of the child. The information shall not be part of the child's permanent record. The information shall not be used as the sole basis for not providing educational services to a pupil.

169.520. FUNDS NOT SUBJECT TO EXECUTION, GARNISHMENT OR ATTACHMENT AND NOT ASSIGNABLE — EXCEPTIONS. — Any funds created by sections 169.410 to 169.540 while in the charge and custody of the board of trustees of such retirement system shall not be subject to execution, garnishment, attachment or any other process whatsoever and shall be unassignable except as in sections 169.410 to 169.540 specifically provided or in the case of a proper order of child support issued through the **family support** division **[**of child support enforcement**]**.

172.875. ORGAN TRANSPLANT PROGRAM, UNIVERSITY OF MISSOURI — MISSOURI KIDNEY PROGRAM TO ESTABLISH GUIDELINES — ADMINISTRATIVE COSTS. — 1. The Missouri kidney program in the University of Missouri, a statewide program that provides treatment for renal disease, shall administer a separate program to provide assistance for immunosuppressive pharmaceuticals and other services for other organ transplant patients. The Missouri kidney program shall establish guidelines and eligibility requirements and procedures,

similar to those established to serve eligible end-stage renal disease patients, for other organ transplant patients to receive assistance pursuant to this section.

2. Every person who receives assistance as a new participant in the Missouri kidney program pursuant to this section shall pay the administrative costs associated with such person's participation in the program.

3. The Missouri kidney program shall coordinate efforts with the divisions of family **[**services and medical services**] support and MO HealthNet** in the department of social services to provide the most efficient and cost-effective assistance to organ transplant patients.

4. From funds appropriated to provide assistance pursuant to this section, the priority shall be to provide pharmaceutical services. If other funds are available through the transplant program, other services for the treatment of organ transplant patients may be provided.

181.110. AGENCIES TO AID IN PUBLICATION OF STATE PUBLICATIONS — STATE LIBRARY TO PROVIDE ELECTRONIC REPOSITORY, RESPONSIBILITIES — PARTICIPATING LIBRARIES — RULEMAKING AUTHORITY. — 1. For the purpose of providing the services described in this section, each agency shall have the following responsibilities and powers:

(1) To submit to the state library electronically each publication created by the agency in a manner consistent with the state's enterprise architecture;

(2) To determine the format used to publish;

(3) For those publications which the agency determines shall be printed and published in paper, to supply the number of copies for participating libraries as determined by the secretary of state;

(4) To assign a designee as a contact for the state publications access program and forward this information to the secretary of state annually.

2. For the purpose of providing the services described in this section, the secretary of state shall have the following responsibilities:

(1) **[**The secretary,**]** Through the state library, **[**shall**] to** provide a secure electronic repository of state publications. Access to the state publications in the repository shall be provided through multiple methods of access, including the statewide online library catalog and a publicly accessible electronic network;

(2) **[**The secretary shall**] To** create, in administrative rule, the criteria for selection of participating libraries and the responsibilities incumbent upon those libraries in serving the citizens of Missouri;

(3) **[**The secretary shall**] To** set by administrative rule the electronic formats acceptable for submission of publications to the electronic repository;

(4) **[**The secretary**]** May issue and promulgate rules to enforce, implement and effectuate the powers and duties established in sections 181.100 to 181.130.

3. For the purpose of providing the services described in this section, the state library shall have the following responsibilities, all to be performed in a manner consistent with e-government:

(1) **[**The state library shall**] To** administer the electronic repository of state publications for access by the citizens of Missouri, and receive and distribute publications in other formats, which will be housed and made available to the public by the participating libraries;

(2) **[**The state library shall**] To** ensure the organization and classification of state publications regardless of formats and the distribution of materials in additional formats to participating libraries;

(3) **[**The state library shall**] To** publish regularly a list of all publications of the agencies, regardless of format.

4. For the purpose of providing the services described in this section, the participating libraries shall have the following responsibilities:

(1) To ensure citizens who come to the library will be able to access publications electronically;

(2) To maintain paper copies of those state publications that agencies publish in paper that are designated by the secretary of state to be included in the Missouri state publications access program;

(3) To maintain a collection of older state publications published by the agencies in paper and designated by the secretary of state to be included in the Missouri state publications access program;

(4) To provide training for staff of other libraries to assist the public in the use of state publications;

(5) To assist agencies in the distribution of paper copies of state publications to the public.

5. All responsibilities and powers set out in this section shall be carried out consistent with the provisions of section **[**191.863**]** **161.935**.

6. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this chapter shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

186.019. REPORT FROM CERTAIN STATE AGENCIES TO COUNCIL AND DESIGNATED OFFICIALS — CONTENTS — DUE, WHEN. — 1. Prior to April first of each year, starting in 1992, the information described in subdivisions (1), (2), (3) and (4) of this subsection shall be delivered in report form to the Missouri women's council, the governor's office, the secretary of the senate, and the chief clerk of the house of representatives. The information shall apply only to activities which occurred during the previous calendar year. Reports shall be required from the following:

(1) The department of labor and industrial relations, and the division of **[**job development and training**]** **workforce development** of the department of economic development, who shall assemble all available data and report on all business start-ups and business failures which are fifty-one percent or more owned by women. The reports shall distinguish, as best as possible, those businesses which are sole proprietorships, partnerships, or corporations;

(2) The department of economic development, who shall assemble all available data and report on financial assistance or other incentives given to all businesses which are fifty-one percent or more owned by women. The report shall contain information relating to assistance or incentives awarded for the retention of existing businesses, the expansion of existing businesses, or the start-up of new businesses;

(3) The department of revenue, who shall assemble all available data and report on the number, gross receipts and net income of all businesses which are fifty-one percent or more owned by women. The reports shall distinguish those businesses which are sole proprietorships, partnerships or corporations;

(4) The division of purchasing of the office of administration, who shall assemble all available data and report on businesses which are fifty-one percent or more owned by women which are recipients of contracts awarded by the state of Missouri.

2. Prior to December first of each year, starting in 1990, the information described in subdivisions (1) and (2) of this subsection shall be delivered in report form to the Missouri women's council, the governor's office, the secretary of the senate, and the chief clerk of the house of representatives. The information shall apply only to activities which occurred during the previous school year. Reports shall be required from the following:

(1) The department of elementary and secondary education shall assemble all available data from the Vocational and Education Data System (VEDS) on class enrollments by Instruction Program Codes (CIP); by secondary and postsecondary schools; and, secondary, postsecondary, and adult level classes; and by gender. This data shall also be reported by classes of traditional and nontraditional occupational areas.

(2) The coordinating board for higher education shall assemble all available data and report on higher education degrees awarded by academic discipline; type of degree; type of school; and gender. All available data shall also be reported on salaries received upon completion of degree program and subsequent hire, as well as any data available on follow-up salaries.

189.095. HOSPITALS WHICH QUALIFY FOR CERTAIN MO HEALTHNET FUNDS ARE INELIGIBLE TO RECEIVE CERTAIN PAYMENTS — HOSPITALS MAY ELECT TO REJECT, WHEN — MO HEALTHNET DIVISION TO USE FUNDS WHICH WOULD HAVE GONE TO HOSPITAL — DIVISION MAY ISSUE RULES AND REGULATIONS. — 1. Hospitals eligible for payments pursuant to the provisions of sections 189.015 to 189.050, which also qualify as hospitals serving a disproportionate number of low income patients pursuant to subdivision (1) of section 208.152 and regulations issued thereunder, shall, because of such qualification, become ineligible to receive payments under sections 189.015 to 189.050 during the period of such qualification.

2. Moneys which, but for the provisions of this section, would have been paid to hospitals made ineligible by the provisions of this section shall be paid over to the **MO HealthNet** division **[**of medical services**]** of the department of social services and used, upon appropriation, by the **MO HealthNet** division **[**of medical services**]** for payments to hospitals.

3. Notwithstanding the provisions of this section, any hospital determined to be ineligible for payments pursuant to the provisions of sections 189.015 to 189.050, solely because of its qualification pursuant to subdivision (1) of section 208.152, may elect to reject such qualification by July fifteenth of any year and accept its eligibility pursuant to sections 189.015 to 189.050.

4. The **MO HealthNet** division **[**of medical services**]** of the department of social services may issue rules and regulations necessary to carry out the provisions of this section.

191.737. CHILDREN EXPOSED TO SUBSTANCE ABUSE, REFERRAL BY PHYSICIAN TO DEPARTMENT OF HEALTH AND SENIOR SERVICES — SERVICES TO BE INITIATED WITHIN SEVENTY-TWO HOURS — PHYSICIAN MAKING REFERRAL IMMUNE FROM CIVIL LIABILITY — CONFIDENTIALITY OF REPORT. — 1. Notwithstanding the physician-patient privilege, any physician or health care provider may refer to the department of health and senior services families in which children may have been exposed to a controlled substance listed in section 195.017, schedules I, II and III, or alcohol as evidenced by:

(1) Medical documentation of signs and symptoms consistent with controlled substances or alcohol exposure in the child at birth; or

(2) Results of a confirmed toxicology test for controlled substances performed at birth on the mother or the child; and

(3) A written assessment made or approved by a physician, health care provider, or by the **children's** division **[**of family services**]** which documents the child as being at risk of abuse or neglect.

2. Nothing in this section shall preclude a physician or other mandated reporter from reporting abuse or neglect of a child as required pursuant to the provisions of section 210.115.

3. Upon notification pursuant to subsection 1 of this section, the department of health and senior services shall offer service coordination services to the family. The department of health and senior services shall coordinate social services, health care, mental health services, and needed education and rehabilitation services. Service coordination services shall be initiated within seventy-two hours of notification. The department of health and senior services shall notify the department of social services and the department of mental health within seventy-two hours of initial notification.

4. Any physician or health care provider complying with the provisions of this section, in good faith, shall have immunity from any civil liability that might otherwise result by reason of such actions.

5. Referral and associated documentation provided for in this section shall be confidential and shall not be used in any criminal prosecution.

192.601. TOLL-FREE TELEPHONE TO BE ESTABLISHED FOR INFORMATION ON HEALTH CARE PROVIDERS FOR CHILDREN ON MEDICAL ASSISTANCE. — The department of health and senior services shall establish a toll-free telephone number for the use of parents to access information about health care providers and practitioners who provide health care services under the maternal and child health block grant and the medical assistance program and about other relevant health care providers, as required by 42 U.S.C. 705(a)(5)(E). Unless otherwise prohibited by federal law or regulation, the cost of establishing and maintaining the cost of the toll-free telephone number, including the cost of personnel to operate or support it, shall be appropriated from the federal maternal and child health block grant. The **MO HealthNet** division **[**of medical services**]** of the department of social services shall provide the department of health and senior services with information it has otherwise compiled concerning health care providers who participate in the medical assistance program. The department of health and senior services shall coordinate the operation of the toll-free telephone numbers operated by the department so as to minimize duplication of administrative expense.

[660.050.] 192.1000. DIVISION OF AGING CREATED — DUTIES — INSPECTORS OF NURSING HOMES, TRAINING AND CONTINUING EDUCATION REQUIREMENTS — PROMULGATION OF RULES, PROCEDURE — DEMENTIA-SPECIFIC TRAINING REQUIREMENTS ESTABLISHED. — 1. The "Division of Aging" is hereby transferred from the department of social services to the department of health and senior services by a type I transfer as defined in the Omnibus State Reorganization Act of 1974. The **[**division**]** **department** shall aid and assist the elderly and low-income **[**handicapped**]** **disabled** adults living in the state of Missouri to secure and maintain maximum economic and personal independence and dignity. The **[**division**]** **department** shall regulate adult long-term care facilities pursuant to the laws of this state and rules and regulations of federal and state agencies, to safeguard the lives and rights of residents in these facilities.

2. In addition to its duties and responsibilities enumerated pursuant to other provisions of law, the **[**division**]** **department** shall:

(1) Serve as advocate for the elderly by promoting a comprehensive, coordinated service program through administration of Older Americans Act (OAA) programs (Title III) P.L. 89-73, (42 U.S.C. 3001, et seq.), as amended;

(2) Assure that an information and referral system is developed and operated for the elderly, including information on **[**the Missouri care options program**]** **home and community based services**;

(3) Provide technical assistance, planning and training to local area agencies on aging;

(4) Contract with the federal government to conduct surveys of long-term care facilities certified for participation in the Title XVIII program;

(5) **[**Serve as liaison between the department of health and senior services and the Federal Health Standards and Quality Bureau, as well as the Medicare and Medicaid portions of the United States Department of Health and Human Services;

(6)**]** Conduct medical review (inspections of care) activities such as utilization reviews, independent professional reviews, and periodic medical reviews to determine medical and social needs for the purpose of eligibility for Title XIX, and for level of care determination;

[(7)**]** **(6)** Certify long-term care facilities for participation in the Title XIX program;

[(8)**]** **(7)** Conduct a survey and review of compliance with P.L. 96-566 Sec. 505(d) for Supplemental Security Income recipients in long-term care facilities and serve as the liaison between the Social Security Administration and the department of health and senior services concerning Supplemental Security Income beneficiaries;

[(9)**]** **(8)** Review plans of proposed long-term care facilities before they are constructed to determine if they meet applicable state and federal construction standards;

[(10)**]** **(9)** Provide consultation to long-term care facilities in all areas governed by state and federal regulations;

[(11)**]** **(10)** Serve as the central state agency with primary responsibility for the planning, coordination, development, and evaluation of policy, programs, and services for elderly persons in Missouri consistent with the provisions of subsection 1 of this section and serve as the designated state unit on aging, as defined in the Older Americans Act of 1965;

[(12) With the advice of the governor's advisory council on aging,**]** **(11)** Develop long-range state plans for programs, services, and activities for elderly and handicapped persons. State plans should be revised annually and should be based on area agency on aging plans, statewide priorities, and state and federal requirements;

[(13)**]** **(12)** Receive and disburse all federal and state funds allocated to the division and solicit, accept, and administer grants, including federal grants, or gifts made to the division or to the state for the benefit of elderly persons in this state;

[(14)**]** **(13)** Serve, within government and in the state at large, as an advocate for elderly persons by holding hearings and conducting studies or investigations concerning matters affecting the health, safety, and welfare of elderly persons and by assisting elderly persons to assure their rights to apply for and receive services and to be given fair hearings when such services are denied;

[(15) Provide information and technical assistance to the governor's advisory council on aging and keep the council continually informed of the activities of the division;

(16) After consultation with the governor's advisory council on aging, make recommendations for legislative action to the governor and to the general assembly;

(17)**]** **(14)** Conduct research and other appropriate activities to determine the needs of elderly persons in this state, including, but not limited to, their needs for social and health services, and to determine what existing services and facilities, private and public, are available to elderly persons to meet those needs;

[(18)**]** **(15)** Maintain and serve as a clearinghouse for up-to-date information and technical assistance related to the needs and interests of elderly persons and persons with Alzheimer's disease or related dementias, including information on the **[**Missouri care options**]** **home and community based services** program, dementia-specific training materials and dementia-specific trainers. Such dementia-specific information and technical assistance shall be maintained and provided in consultation with agencies, organizations and/or institutions of higher learning with expertise in dementia care;

[(19)**]** **(16)** Provide area agencies on aging with assistance in applying for federal, state, and private grants and identifying new funding sources;

[(20)**]** **(17)** Determine area agencies on aging annual allocations for Title XX and Title III of the Older Americans Act expenditures;

[(21)**]** **(18)** Provide transportation services, home-delivered and congregate meals, in-home services, counseling and other services to the elderly and low-income handicapped adults as designated in the Social Services Block Grant Report, through contract with other agencies, and shall monitor such agencies to ensure that services contracted for are delivered and meet standards of quality set by the division;

[(22)**]** **(19)** Monitor the process pursuant to the federal Patient Self-determination Act, 42 U.S.C. 1396a (w), in long-term care facilities by which information is provided to patients concerning durable powers of attorney and living wills.

3. The **[**division director, subject to the supervision of the director of the department of health and senior services, shall be the chief administrative officer of the division and shall exercise for the division the powers and duties of an appointing authority pursuant to chapter 36 to employ such administrative, technical and other personnel as may be necessary for the performance of the duties and responsibilities of the division.

4. The division**]** **department** may withdraw designation of an area agency on aging only when it can be shown the federal or state laws or rules have not been complied with, state or federal funds are not being expended for the purposes for which they were intended, or the elderly are not receiving appropriate services within available resources, and after consultation

with the director of the area agency on aging and the area agency board. Withdrawal of any particular program of services may be appealed to the director of the department of health and senior services and the governor. In the event that the division withdraws the area agency on aging designation in accordance with the Older Americans Act, the **[**division**]** **department** shall administer the services to clients previously performed by the area agency on aging until a new area agency on aging is designated.

[5.**]** **4.** Any person hired by the department of health and senior services after August 13, 1988, to conduct or supervise inspections, surveys or investigations pursuant to chapter 198 shall complete at least one hundred hours of basic orientation regarding the inspection process and applicable rules and statutes during the first six months of employment. Any such person shall annually, on the anniversary date of employment, present to the department evidence of having completed at least twenty hours of continuing education in at least two of the following categories: communication techniques, skills development, resident care, or policy update. The department of health and senior services shall by rule describe the curriculum and structure of such continuing education.

[6.**]** **5.** The **[**division**]** **department** may issue and promulgate rules to enforce, implement and effectuate the powers and duties established in this section and sections 198.070 and 198.090 and sections **[**660.250 and 660.300 to 660.320**]** **192.1080 and 192.1102 to 192.1112**. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

[7. Missouri care options**]** **6. Home and community based services** is a program, operated and coordinated by the **[**division of aging**]** **department of health and senior services**, which informs individuals of the variety of care options available to them when they may need long-term care.

[8.**]** **7.** The division shall**[**, by January 1, 2002, establish**]** **maintain** minimum dementia-specific training requirements for employees involved in the delivery of care to persons with Alzheimer's disease or related dementias who are employed by skilled nursing facilities, intermediate care facilities, residential care facilities, agencies providing in-home care services authorized by the division of aging, adult day-care programs, independent contractors providing direct care to persons with Alzheimer's disease or related dementias and the division of aging. Such training shall be incorporated into new employee orientation and ongoing in-service curricula for all employees involved in the care of persons with dementia. The department of health and senior services shall**[**, by January 1, 2002, establish**]** **maintain** minimum dementia-specific training requirements for employees involved in the delivery of care to persons with Alzheimer's disease or related dementias who are employed by home health and hospice agencies licensed by chapter 197. Such training shall be incorporated into the home health and hospice agency's new employee orientation and ongoing in-service curricula for all employees involved in the care of persons with dementia. The dementia training need not require additional hours of orientation or ongoing in-service. Training shall include at a minimum, the following:

(1) For employees providing direct care to persons with Alzheimer's disease or related dementias, the training shall include an overview of Alzheimer's disease and related dementias, communicating with persons with dementia, behavior management, promoting independence in activities of daily living, and understanding and dealing with family issues;

(2) For other employees who do not provide direct care for, but may have daily contact with, persons with Alzheimer's disease or related dementias, the training shall include an overview of dementias and communicating with persons with dementia. As used in this subsection, the term "employee" includes persons hired as independent contractors. The training

requirements of this subsection shall not be construed as superceding any other laws or rules regarding dementia-specific training.

[660.053.] 192.1002. DEFINITIONS. — As used in **[**section 199.025 and sections 660.050 to 660.057 and 660.400 to 660.420**] sections 192.1000 to 192.1008 and 192.1040 to 192.1058**, the following terms mean:

(1) "Area agency on aging", the agency designated by the **[**division**] department** in a planning and service area to develop and administer a plan and administer available funds for a comprehensive and coordinated system of services for the elderly and persons with disabilities who require similar services;

(2) "Area agency board", the local policy-making board which directs the actions of the area agency on aging under state and federal laws and regulations;

(3) **"Department", the department of health and senior services;**

(4) "Director", the director of the **[**division of aging of the Missouri department of social**] department of health and senior** services;

[(4) "Division", the division of aging of the Missouri department of social services;**]**

(5) "Elderly" or "elderly persons", persons who are sixty years of age or older;

(6) "Disability", a mental or physical impairment that substantially limits one or more major life activities, whether the impairment is congenital or acquired by accident, injury or disease, where such impairment is verified by medical findings;

(7) "Local government", a political subdivision of the state whose authority is general or a combination of units of general purpose local governments;

(8) "Major life activities", functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working;

(9) "Medicaid", medical assistance provided under section 208.151, et seq., in compliance with Title XIX, Public Law 89-97, 1965 amendments to the Social Security Act (42 U.S.C. 301 et seq.), as amended;

(10) "Protective services", a service provided by the **[**Missouri division of aging**] department of health and senior services** in response to the need for protection from harm or neglect to eligible adults under sections **[**660.250 to 660.295**] 192.1080 to 192.1100**;

(11) "Registered caregiver", a person who provides primary long-term care for an elderly person and wishes to receive information, services or support from the shared care program;

(12) "Shared care", a program administered by the **[**division of aging**] department of health and senior services** in which Missouri families who provide primary long-term care for an elderly person and register as a shared care member with the **[**division of aging**] department** shall receive access to certain supportive services and may receive a state tax credit;

(13) "Shared care community project", a project in a community that offers to help support shared care participation through development of programs;

(14) "Shared care member", a registered caregiver or shared care provider who registers with the **[**division of aging**] department** in order to participate in the shared care program;

(15) "Shared care provider", any state authorized long-term care provider in the state, including, but not limited to, in-home, home health, hospice, adult day care, residential care facility or assisted living facility, or nursing home, who voluntarily registers with the **[**division of aging**] department** to be available as a resource for the shared care program;

(16) "Shared care tax credit", a tax credit to registered caregivers who meet the requirements of section **[**660.055**] 192.1006**.

[660.054.] 192.1004. SHARED CARE PROGRAM ESTABLISHED, GOALS — DEPARTMENT DUTIES. — 1. The **[**division of aging of the department of social**] department of health and senior** services shall establish a program to help families who provide the primary long-term care for an elderly person. This program shall be known as "shared care" and has the following goals:

(1) To provide services and support for families caring for an elderly person;

(2) To increase awareness of the variety of privately funded services which may be available to those persons caring for an elderly person;

(3) To increase awareness of the variety of government services which may be available to those caring for an elderly person;

(4) Recognition on an annual basis by the governor for those families participating in the shared care program and community project groups participating in the shared care program;

(5) To provide a tax credit to members who meet the qualifications pursuant to section **[**660.055**]** **192.1006**; and

(6) To promote community involvement by:

(a) Providing local communities information about the shared care program and to encourage the establishment of support groups where none are available and to support existing support groups, and other programs for shared care members and providers to share ideas, information and resources on caring for an elderly person; and

(b) Encouraging local home care, adult day care or other long-term care providers, who have regularly scheduled training sessions for paid caregivers, to voluntarily invite shared care members to participate in education and training sessions at no cost to the registered caregivers. Such providers shall not be held liable in any civil or criminal action related to or arising out of the participation or training of shared care members in such sessions.

2. To further the goals of the shared care program, the director shall:

(1) Promulgate specific rules and procedures for the shared care program. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in sections **[**660.050 to 660.057**]** **192.1000 to 192.1008** shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void;

(2) Maintain a registry of names and addresses of shared care members and shared care providers;

(3) Compile a list, updated annually, of public and private resources, services and programs which may be available to assist and support the registered caregiver with caring for the elderly. Such list shall be given to shared care members along with information on shared care providers in their community. Private organizations and providers shall be responsible for providing information to the division of aging for inclusion on the list. The **[**division of aging**]** **department** shall establish reporting procedures for private organizations and publicly disseminate the division's guidelines statewide;

(4) Compile and distribute to shared care members information about the services and benefits of the shared care program and a bibliography of resources and materials with information helpful to such members. The bibliography will give members an overview of available information and is not required to be comprehensive;

(5) Encourage shared care providers, consumer groups, churches and other philanthropic organizations to help local communities develop local support systems where none are available and to support existing support groups for persons caring for elderly persons and make **[**division**]** **department** staff available, if possible;

(6) In conjunction with the director of revenue, develop a physician certification for shared care tax credit form to be given to registered caregivers upon request. The form shall require, but is not limited to:

(a) Identifying information about the registered caregiver for tax purposes, and the signature of the registered caregiver certifying that he or she qualifies for the shared care tax credit as provided in section **[**660.055**]** **192.1006**;

(b) Identifying information about the elderly person receiving care for verification purposes;

(c) Identifying information about and the signature of the physician licensed pursuant to the provisions of chapter 334 for verification and certification purposes;

(d) A description by such physician of the physical or mental condition of the elderly person that makes them incapable of living alone and lists the care, assistance with daily living and oversight needed at home in order to prevent placement in a facility licensed pursuant to chapter 198; and

(e) A complete explanation of the shared care tax credit and its guidelines and directions on completion of the form and how to file for the shared care tax credit with the department of revenue; and

(7) In conjunction with the director of revenue, develop a **[**division of aging**]** **department** certification for shared care tax credit form to be given at the request of the registered caregivers when a **[**division of aging**]** **department** assessment has been completed for other purposes. The form shall require, but is not limited to:

(a) Identifying information about the registered caregiver for tax purposes, and the signature of the registered caregiver certifying that he or she qualifies for the shared care tax credit as provided in section **[**660.055**]** **192.1006**;

(b) Identifying information about the elderly person receiving care for verification purposes;

(c) Identifying information about and the signature of the **[**division of aging**]** **department** staff for verification and certification purposes;

(d) A description by the **[**division of aging**]** **department** staff of the physical or mental condition of the elderly person that makes them incapable of living alone and lists the care, assistance with daily living and oversight needed at home in order to prevent placement in a facility licensed pursuant to chapter 198; and

(e) A complete explanation of the shared care tax credit and its guidelines and directions for completing the form and how to file for the shared care tax credit with the department of revenue.

3. Funds appropriated for the shared care program shall be appropriated to and administered by the department of **[**social**]** **health and senior** services.

[660.055.] 192.1006. SHARED CARE TAX CREDIT AVAILABLE, WHEN — ELIGIBILITY REQUIREMENTS — RULEMAKING AUTHORITY — PENALTY PROVISION. — 1. Any registered caregiver who meets the requirements of this section shall be eligible for a shared care tax credit in an amount not to exceed five hundred dollars to defray the cost of caring for an elderly person. In order to be eligible for a shared care tax credit, a registered caregiver shall:

(1) Care for an elderly person, age sixty or older, who:

(a) Is physically or mentally incapable of living alone, as determined and certified by his or her physician licensed pursuant to chapter 334, or by the **[**division of aging**]** **department** staff when an assessment has been completed for the purpose of qualification for other services; and

(b) Requires assistance with activities of daily living to the extent that without care and oversight at home would require placement in a facility licensed pursuant to chapter 198; and

(c) Under no circumstances, is able or allowed to operate a motor vehicle; and

(d) Does not receive funding or services through Medicaid or social services block grant funding;

(2) Live in the same residence to give protective oversight for the elderly person meeting the requirements described in subdivision (1) of this subsection for an aggregate of more than six months per tax year;

(3) Not receive monetary compensation for providing care for the elderly person meeting the requirements described in subdivision (1) of this subsection; and

(4) File the original completed and signed physician certification for shared care tax credit form or the original completed and signed **[**division of aging**]** **department** certification for shared care tax credit form provided for in subsection 2 of section **[**660.054**]** **192.1004** along with such caregiver's Missouri individual income tax return to the department of revenue.

2. The tax credit allowed by this section shall apply to any year beginning after December 31, 1999.

3. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in sections **[**660.050 to 660.057**]** **192.1000 to 192.1008** shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

4. Any person who knowingly falsifies any document required for the shared care tax credit shall be subject to the same penalties for falsifying other tax documents as provided in chapter 143.

[660.057.] 192.1008. AREA AGENCIES FOR AGING DUTIES — ADVISORY COUNCIL, DUTIES — AGENCY RECORDS AUDITED, WHEN. — 1. On and after August 13, 1984, an area agency on aging shall operate with local administrative responsibility for Title III of the Older Americans Act, and other funds allocated to it by the **[**division**]** **department**. The area agency board shall be responsible for all actions of an area agency on aging in its jurisdiction, including, but not limited to, the accountability for funds and compliance with federal and state laws and rules. Such responsibility shall include all geographic areas in which the area agency on aging is designated to operate. The respective area agency board shall appoint a director of the area agency on aging in its jurisdiction. Beginning January 1, 1995, the director of the area agency on aging shall submit an annual performance report to the **[**division**]** **department** director, the speaker of the house of representatives, the president pro tempore of the senate and the governor. Such performance report shall give a detailed accounting of all funds which were available to and expended by the area agency on aging from state, federal and private sources.

2. Each area agency on aging shall have an area agency on aging advisory council, which shall:

(1) Recommend basic policy guidelines for the administration of the activities of the area agencies on aging on behalf of elderly persons and advise the area agency on aging on questions of policy;

(2) Advise the area agency on aging with respect to the development of the area plan and budget, and review and comment on the completed area plan and budget before its transmittal to the division;

(3) Review and evaluate the effectiveness of the area agency on aging in meeting the needs of elderly persons in the planning and service area;

(4) Meet at least quarterly, with all meetings being subject to sections 610.010 to 610.030.

3. Each area agency board shall:

(1) Conduct local planning functions for Title III and Title XX, and such other funds as may be available;

(2) Develop a local plan for service delivery, subject to review and approval by the division, that complies with federal and state requirements and in accord with locally determined objectives consistent with the state policy on aging;

(3) Assess the needs of elderly persons within the planning and service delivery area for service for social and health services, and determine what resources are currently available to meet those needs;

(4) Assume the responsibility of determining services required to meet the needs of elderly persons, assure that such services are provided within the resources available, and determine when such services are no longer needed;

(5) Endeavor to coordinate and expand existing resources in order to develop within its planning and service area a comprehensive and coordinated system for the delivery of social and health services to elderly persons;

(6) Serve as an advocate within government and within the community at large for the interests of elderly persons within its planning and service area;

(7) Make grants to or enter into contracts with any public or private agency for the provision of social or health services not otherwise sufficiently available to elderly persons within the planning and service area;

(8) Monitor and evaluate the activities of its service providers to ensure that the services being provided comply with the terms of the grant or contract. Where a provider is found to be in breach of the terms of its grant or contract, the area agency shall enforce the terms of the grant or contract;

(9) Conduct research, evaluation, demonstration or training activities appropriate to the achievement of the goal of improving the quality of life for elderly persons within its planning and service area;

(10) Comply with division requirements that have been developed in consultation with the area agencies for client and fiscal information, and provide to the division information necessary for federal and state reporting, program evaluation, program management, fiscal control and research needs.

4. Beginning January 1, 1995, the records of each area agency on aging shall be audited at least every other year. All audits required by the Older Americans Act of 1965, as amended, shall satisfy this requirement.

[660.058.] 192.1010. BUDGET ALLOTMENT TABLES PROVIDED TO EACH AREA AGENCY ON AGING, WHEN — AREA PLAN SUBMITTED, WHEN — ON-SITE MONITORING BY DIVISION. — 1. The **[**division of aging**]** **department** shall provide budget allotment tables to each area agency on aging by January first of each year. Each area agency on aging shall submit its area plan, area budget and service contracts to the **[**division of aging**]** **department** by March first of each year. Each April, the area agencies on aging shall present their plans to the **[**division of aging**]** **department** in a public hearing scheduled by the **[**division**]** **department** and held in the area served by the area agency on aging. Within thirty days of such hearing, the **[**division**]** **department** shall report findings and recommendations to the board of directors for the area agency on aging, the area agency on aging advisory council, the members of the senate budget committee and the members of the house appropriations committee **[**for social services and corrections**]** **assigned the department of health and senior services**.

2. Each area agency on aging shall include in its area plan performance measures and outcomes to be achieved for each year covered by the plan. Such measures and outcomes shall also be presented to the **[**division**]** **department** during the public hearing.

3. The **[**division of aging**]** **department** shall conduct on-site monitoring of each area agency on aging at least once a year. The **[**division of aging**]** **department** shall send all monitoring reports to the area agency on aging advisory council and the board of directors for the area agency which is the subject of the reports.

[660.062.] 192.1012. STATE BOARD OF SENIOR SERVICES CREATED, MEMBERS, TERMS, DUTIES. — 1. There is hereby created a "State Board of Senior Services" which shall consist of seven members, who shall be appointed by the governor, by and with the advice and consent of

the senate. No member of the state board of senior services shall hold any other office or employment under the state of Missouri other than in a consulting status relevant to the member's professional status, licensure or designation. Not more than four of the members of the state board of senior services shall be from the same political party.

2. Each member shall be appointed for a term of four years; except that of the members first appointed, two shall be appointed for a term of one year, two for a term of two years, two for a term of three years and one for a term of four years. The successors of each shall be appointed for full terms of four years. No person may serve on the state board of senior services for more than two terms. The terms of all members shall continue until their successors have been duly appointed and qualified. One of the persons appointed to the state board of senior services shall be a person currently working in the field of gerontology. One of the persons appointed to the state board of senior services shall be a physician with expertise in geriatrics. One of the persons appointed to the state board of senior services shall be a person with expertise in nutrition. One of the persons appointed to the state board of senior services shall be a person with expertise in rehabilitation services of persons with disabilities. One of the persons appointed to the state board of senior services shall be a person with expertise in mental health issues. In making the two remaining appointments, the governor shall give consideration to individuals having a special interest in gerontology or disability-related issues, including senior citizens. Four of the seven members appointed to the state board of senior services shall be members of the governor's advisory council on aging. If a vacancy occurs in the appointed membership, the governor may appoint a member for the remaining portion of the unexpired term created by the vacancy. The members shall receive actual and necessary expenses plus twenty-five dollars per day for each day of actual attendance.

3. The board shall elect from among its membership a chairman and a vice chairman, who shall act as chairman in his or her absence. The board shall meet at the call of the chairman. The chairman may call meetings at such times as he or she deems advisable, and shall call a meeting when requested to do so by three or more members of the board.

4. The state board of senior services shall advise the department of health and senior services in the:

(1) Promulgation of rules and regulations by the department of health and senior services;

(2) Formulation of the budget for the department of health and senior services; and

(3) Planning for and operation of the department of health and senior services.

[660.067.] 192.1020. ALZHEIMER'S DISEASE AND RELATED DISORDERS RESPITE CARE PROGRAM — DEFINITIONS. — As used in sections **[**660.067 to 660.070**] 192.1020 to 192.1024**, the following terms shall mean:

(1) "Adult day care", a group program that emphasizes appropriate services for persons eighteen years of age or older having Alzheimer's disease and related disorders and that provides services for periods of less than twenty-four hours but more than two hours per day in a place other than the adult's home;

(2) "Alzheimer's disease and related disorders", diseases resulting from significant destruction of brain tissue and characterized by a decline of memory and other intellectual functions. These diseases include but are not limited to progressive, degenerative and dementing illnesses such as presenile and senile dementias, Alzheimer's disease and other related disorders;

(3) "Appropriate services", services that emphasize surveillance, safety, behavior management and other techniques used to assist persons having Alzheimer's disease and related disorders;

(4) **"Department", the department of health and senior services;**

(5) "Director", the director of the **[**division of aging of the department of social**] department of health and senior** services;

[(5) "Division", the division of aging of the department of social services;**]**

(6) "In-home companion", someone trained to provide appropriate services to persons having Alzheimer's disease and related disorders and who provides those services in the home;

(7) "Respite care", a program that provides temporary and short-term residential care, sustenance, supervision and other appropriate services for persons having Alzheimer's disease and related disorders who otherwise reside in their own or in a family home.

[660.069.] 192.1022. RESPITE CARE PROGRAM FOR ALZHEIMER'S PURPOSES. — 1. To encourage development of appropriate services for persons having Alzheimer's disease and related disorders, the **[**division**]** **department** may make grants to public and private entities for pilot projects from funds specifically appropriated for this purpose. Pilot projects shall have the following goals:

(1) To prevent or postpone institutionalization of persons having Alzheimer's disease and related disorders who currently live in their own home or in a family home;

(2) To offer services that emphasize safety, surveillance and behavior management rather than, or in addition to, medical treatment, homemaker, chore or personal care services;

(3) To temporarily relieve family members or others who have assumed direct care responsibilities by offering services that allow care givers to leave the home. These services shall include but not be limited to adult day care, in-home companions and respite care;

(4) To test the practical and economic feasibility of providing services in settings and at levels designed for varying needs; and

(5) To develop program models that can be adapted and operated by other public and private entities.

2. The director, in accordance with chapter 536, shall promulgate rules that establish procedures for grant application, review, selection, monitoring and auditing of grants made pursuant to sections **[**660.067 to 660.070**]** **192.1020 to 192.1024**.

3. The grants shall be limited to a duration of one year but may be renewable for one additional year at the director's discretion and if funds are appropriated for this purpose.

[660.070.] 192.1024. RULES AND REGULATIONS FOR RESPITE CARE PROGRAM, PROCEDURE. — The commissioner of administration, in consultation with the director of the **[**division of aging**]** **department**, shall promulgate rules that establish procedures for contracting with grantees receiving funds under sections **[**660.067 to 660.070**]** **192.1020 to 192.1024**. No rule or portion of a rule promulgated under the authority of sections **[**660.067 to 660.070**]** **192.1020 to 192.1024** shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

[660.225.] 192.1030. DEPARTMENT TO USE SERVICES OF CERTAIN ORGANIZATIONS, WHEN. — The **[**division of aging**]** **department** shall use the services of community based, not-for-profit organizations including senior centers for the provision of home delivered meals to qualified recipients prepared by such organizations if such service is available at not more than seventy-five percent of the cost currently incurred by the **[**division**]** **department** for the provision of such service.

[660.400.] 192.1040. DEFINITIONS. — As used in sections **[**199.025 and 660.403 to 660.420**]** **192.1040 to 192.1058**, unless the context clearly indicates otherwise, the following terms mean:

(1) "Adult", an individual over the age of eighteen;

(2) "Adult day care program", a group program designed to provide care and supervision to meet the needs of functionally impaired adults for periods of less than twenty-four hours but more than two hours per day in a place other than the adult's own home;

(3) "Adult day care provider", the person, corporation, partnership, association or organization legally responsible for the overall operation of the adult day care program;

(4) "Department", the department of **[**social**]** **health and senior** services;

(5) "Director", the director of the **[**division of aging**]** **department of health and senior services**;

(6) **[**"Division", the division of aging;

(7)**]** "Functionally impaired adult", an adult who by reason of age or infirmity requires care and supervision;

[(8)**]** **(7)** "License", the document issued by the **[**division**]** **department** in accordance with the provisions of sections **[**199.025 and 660.403 to 660.420**]** **192.1040 to 192.1058** to an adult day care program which authorizes the adult day care provider to operate the program in accordance with the provisions of sections **[**199.025 and 660.403 to 660.420**]** **192.1040 to 192.1058** and the applicable rules promulgated pursuant thereto;

[(9)**]** **(8)** "Participant", a functionally impaired adult who is enrolled in an adult day care program;

[(10)**]** **(9)** "Person", any individual, firm, corporation, partnership, association, agency, or an incorporated or unincorporated organization regardless of the name used;

[(11)**]** **(10)** "Provisional license", the document issued by the **[**division**]** **department** in accordance with the provisions of sections **[**199.025 and 660.403 to 660.420**]** **192.1040 to 192.1058** to an adult day care provider which is not currently meeting the requirements necessary to obtain a license;

[(12)**]** **(11)** "Related", any of the following by blood, marriage or adoption: parent, child, grandchild, brother, sister, half-brother, half-sister, stepparent, uncle, aunt, niece, nephew, or first cousin;

[(13)**]** **(12)** "Staff participant ratio", the number of adult care staff required by the **[**division**]** **department** in relation to the number of adults being cared for by such staff.

[660.403.] 192.1042. LICENSE REQUIRED TO OPERATE DAY CARE PROGRAM — FORMS — LICENSE VALIDITY PERIOD — TEMPORARY OPERATING PERMIT, WHEN. — 1. It shall be unlawful for any person to establish, maintain, or operate an adult day care program, or to advertise or hold himself **or herself** out as being able to perform any adult day care service, unless he **or she** has obtained the proper license.

2. All applications for licenses shall be made on forms provided by the **[**division**]** **department** and in the manner prescribed by the **[**division**]** **department**. All forms provided shall include a fee schedule.

3. The **[**division**]** **department** shall conduct an investigation of the adult day care program, and the applicant, for which a license is sought in order to determine if such program is complying with the following:

(1) Local fire safety requirements or fire safety requirements of the **[**division**]** **department** if there are no local codes;

(2) Local or state sanitation requirements;

(3) Local building and zoning requirements, where applicable;

(4) Staff/adult ratios required by the **[**division**]** **department**; and

(5) Other applicable provisions of sections **[**199.025 and 660.403 to 660.420**]** **192.1040 to 192.1058** and all applicable rules promulgated pursuant thereto, including but not limited to:

(a) The applicant's ability to render adult day care;

(b) The proposed plan for providing adult day care;

(c) The proposed plan of operation of the adult day care program, so that, in the judgment of the **[**division**]** **department**, minimum standards are being met to insure the health and safety of the participants.

4. Following completion of its investigation made pursuant to subsection 3 of this section and a finding that the applicant for a license has complied with all applicable rules promulgated pursuant to sections **[**199.025 and 660.403 to 660.420 the division**]** **192.1040 to 192.1058, the**

department shall issue a license to such applicant. Such license shall be valid for the period designated by the **[**division**]** **department**, which period shall not exceed two years from the date of issuance, for the premises and persons named in the application.

5. Each license issued under sections **[**199.025 and 660.403 to 660.420**]** **192.1040 to 192.1058** shall include the name of the provider, owner and operator; the name of the adult day care program; the location of the adult day care program; the hours of operations; the number and any limitations or the type of participants who may be served; and the period for which such license is valid.

6. The **[**division**]** **department** may issue a provisional license to an adult day care program that is not currently meeting requirements for a license but which demonstrates the potential capacity to meet full requirements for license; except that, no provisional license shall be issued unless the director is satisfied that the operation of the adult day care program is not detrimental to the health and safety of the participants being served. The provisional license shall be nonrenewable and shall be valid for the period designated by the **[**division**]** **department**, which period shall not exceed six months from the date of issuance. Upon issuance of a regular license, a day care program's provisional license shall immediately be null and void.

[660.405.] 192.1044. EXCEPTIONS TO LICENSURE REQUIREMENTS FOR ADULT DAY CARE CENTERS. — 1. The provisions of sections **[**199.025 and 660.403 to 660.420**]** **192.1040 to 192.1058** shall not apply to the following:

(1) Any adult day care program operated by a person in which care is offered for no more than two hours per day;

(2) Any adult day care program maintained or operated by the federal government except where care is provided through a management contract;

(3) Any person who cares solely for persons related to the provider or who has been designated as guardian of that person;

(4) Any adult day care program which cares for no more than four persons unrelated to the provider;

(5) Any adult day care program licensed by the department of mental health under chapter 630 which provides care, treatment and habilitation exclusively to adults who have a primary diagnosis of mental disorder, mental illness, mental retardation or developmental disability as defined;

(6) Any adult day care program administered or maintained by a religious not-for-profit organization serving a social or religious function if the adult day care program does not hold itself out as providing the prescription or usage of physical or medical therapeutic activities or as providing or administering medicines or drugs.

2. Nothing in this section shall prohibit any person listed in subsection 1 of this section from applying for a license or receiving a license if the adult day care program owned or operated by such person conforms to the provisions of sections **[**199.025 and 660.403 to 660.420**]** **192.1040 to 192.1058** and all applicable rules promulgated pursuant thereto.

[660.407.] 192.1046. RIGHT TO ENTER PREMISES FOR COMPLIANCE INSPECTIONS OR TO INVESTIGATE COMPLAINTS — FAILURE TO PERMIT, EFFECT. — 1. The director, or **[**his**]** **the director's** authorized representative, shall have the right to enter the premises of an applicant for or holder of a license at any time during the hours of operation of a center to determine compliance with provisions of sections **[**199.025 and 660.403 to 660.420**]** **192.1040 to 192.1058** and applicable rules promulgated pursuant thereto. Entry shall also be granted for investigative purposes involving complaints regarding the operations of an adult day care program. The **[**division**]** **department** shall make at least two inspections per year, at least one of which shall be unannounced to the operator or provider. The **[**division**]** **department** may make such other inspections, announced or unannounced, as it deems necessary to carry out the provisions of sections **[**199.025 and 660.403 to 660.420**]** **192.1040 to 192.1058**.

2. The applicant for or holder of a license shall cooperate with the investigation and inspection by providing access to the adult day care program, records and staff, and by providing access to the adult day care program to determine compliance with the rules promulgated pursuant to sections **[**199.025 and 660.403 to 660.420**]** **192.1040 to 192.1058**.

3. Failure to comply with any lawful request of the **[**division**]** **department** in connection with the investigation and inspection is a ground for refusal to issue a license or for the suspension or revocation of a license.

4. The **[**division**]** **department** may designate to act for it, with full authority of law, any instrumentality of any political subdivision of the state of Missouri deemed by the **[**division**]** **department** to be competent to investigate and inspect applicants for or holders of licenses.

[660.409.] 192.1048. FEE FOR LICENSE OR RENEWAL, LIMITATION. — Each application for a license, or the renewal thereof, issued pursuant to sections **[**199.025 and 660.403 to 660.420**]** **192.1040 to 192.1058** shall be accompanied by a nonrefundable fee in the amount required by the **[**division**]** **department**. The fee, to be determined by the director **[**of the division**]**, shall not exceed one hundred dollars and shall be based on the licensed capacity of the applicant.

[660.411.] 192.1050. ADULT DAYCARE PROGRAM MANUAL — REGIONAL TRAINING SESSIONS. — The **[**division**]** **department** shall offer technical assistance or consultation to assist applicants for or holders of licenses or provisional licenses in meeting the requirements of sections **[**199.025 and 660.403 to 660.420**]** **192.1040 to 192.1058**, staff qualifications, and other aspects involving the operation of an adult day care program, and to assist in the achievement of programs of excellence related to the provision of adult day care.

[660.414.] 192.1052. INSPECTIONS, WHEN — REFUSAL TO PERMIT ACCESS, COURT ORDER ISSUED WHEN — INJUNCTION AUTHORIZED. — 1. Whenever the **[**division**]** **department** is advised or has reason to believe that any person is operating an adult day care program without a license, or provisional license, or that any holder of license, or provisional license is not in compliance with the provisions of sections **[**199.025 and 660.403 to 660.420**]** **192.1040 to 192.1058**, the **[**division**]** **department** shall make an investigation and inspection to ascertain the facts. If the **[**division**]** **department** is not permitted access to the adult day care program in question, the **[**division**]** **department** may apply to the circuit court of the county in which the program is located for an order authorizing entry for inspection. The court shall issue the order if it finds reasonable grounds necessitating the inspection.

2. If the **[**division**]** **department** finds that the adult day care program is being operated in violation of sections **[**199.025 and 660.403 to 660.420**]** **192.1040 to 192.1058**, it may seek, among other remedies, injunctive relief against the adult day care program.

[660.416.] 192.1054. LICENSE DENIED — SUSPENDED — REVOKED — HEARING PROCEDURE — APPEALS. — 1. Any person aggrieved by an official action of the **[**division**]** **department** either refusing to issue a license or revoking or suspending a license may seek a determination thereon by the administrative hearing commission pursuant to the provisions of section 161.272, et seq.; except that, the petition must be filed with the administrative hearing commission within thirty days after the mailing or delivery of notice to the applicant for or holder of such license or certificate. When the notification of the official action is mailed to the applicant for or holder of such a license, there shall be included in the notice a statement of the procedure whereby the applicant for or holder of such license may appeal the decision of the **[**division**]** **department** before the administrative hearing commission. It shall not be a condition to such determination that the person aggrieved seek a reconsideration, a rehearing or exhaust any other procedure within the **[**division**]** **department**.

2. The administrative hearing commission may stay the revocation or suspension of such certificate or license, pending the commission's findings and determination in the cause, upon such conditions as the commission deems necessary and appropriate including the posting of bond or other security; except that, the commission shall not grant a stay or if a stay has already been entered shall set aside its stay, if, upon application of the **[**division**]** **department**, the commission finds reason to believe that continued operation of the facility to which the certificate or license in question applies pending the commission's final determination would present an imminent danger to the health, safety or welfare of any person or a substantial probability that death or serious physical harm would result. In any case in which the **[**division**]** **department** has refused to issue a certificate or license, the commission shall have no authority to stay or to require the issuance of a license pending final determination by the commission.

3. The administrative hearing commission shall make the final decision as to the issuance, suspension, or revocation of a license. Any person aggrieved by a final decision of the administrative hearing commission, including the **[**division**]** **department**, may seek judicial review of such decision by filing a petition for review in the court of appeals for the district in which the adult day care program to which the license in question applies is located. Review shall be had in accordance with the provisions of sections 161.337 and 161.338.

[660.418.] 192.1056. RULES, AUTHORITY, PROCEDURE. — The director of the **[**division**]** **department** shall have the authority to promulgate rules pursuant to this section and chapter 536 in order to carry out the provisions of sections **[**199.025 and 660.403 to 660.420**]** **192.1040 to 192.1058**. No rule or portion of a rule promulgated under the authority of section **[**199.025 and sections 660.403 to 660.420**]** **192.1040 to 192.1058** shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

[660.420.] 192.1058. VIOLATIONS, PENALTIES. — 1. Any person who violates any provision of sections **[**199.025 and 660.403 to 660.420**]** **192.1040 to 192.1058**, or who, for himself or for any other person, makes materially false statements in order to obtain a certificate or license, or the renewal thereof, issued pursuant to sections **[**199.025 and 660.403 to 660.420**]** **192.1040 to 192.1058**, shall be guilty of a class A misdemeanor.

2. Any person who is convicted pursuant to this section shall, in addition to all other penalties provided by law, have any license issued to him **or her** under sections **[**199.025 and 660.403 to 660.420**]** **192.1040 to 192.1058** revoked, and shall not operate, nor hold any license to operate, any adult day care program, or other entity governed by the provisions of sections **[**199.025 and 660.403 to 660.420**]** **192.1040 to 192.1058** for a period of three years after such conviction.

[660.600.] 192.1060. DEFINITIONS. — As used in sections **[**660.600 to 660.608**]** **192.1060 to 192.1066**, the following terms mean:

(1) **[**"Division", the division of aging of the department of social services**]** **"Department", the department of health and senior services**;

(2) "Long-term care facility", any facility licensed pursuant to chapter 198 and long-term care facilities connected with hospitals licensed pursuant to chapter 197;

(3) "Office", the office of the state ombudsman for long-term care facility residents;

(4) "Ombudsman", the state ombudsman for long-term care facility residents;

(5) "Regional ombudsman coordinators", designated individuals working for, or under contract with, the area agencies on aging, and who are so designated by the area agency on aging and certified by the ombudsman as meeting the qualifications established by the **[**division**]** **department**;

(6) "Resident", any person who is receiving care or treatment in a long-term care facility.

[660.603.] 192.1062. OFFICE OF STATE OMBUDSMAN FOR LONG-TERM CARE FACILITY RESIDENTS CREATED IN DEPARTMENT OF HEALTH AND SENIOR SERVICES — PURPOSE —

POWERS AND DUTIES. — 1. There is hereby established within the department of health and senior services the "Office of State Ombudsman for Long-Term Care Facility Residents", for the purpose of helping to assure the adequacy of care received by residents of long-term care facilities and to improve the quality of life experienced by them, in accordance with the federal Older Americans Act, 42 U.S.C. 3001, et seq.

2. The office shall be administered by the state ombudsman, who shall devote his or her entire time to the duties of his or her position.

3. The office shall establish and implement procedures for receiving, processing, responding to, and resolving complaints made by or on behalf of residents of long-term care facilities relating to action, inaction, or decisions of providers, or their representatives, of long-term care services, of public agencies or of social service agencies, which may adversely affect the health, safety, welfare or rights of such residents.

4. The department shall establish and implement procedures for resolution of complaints. The ombudsman or representatives of the office shall have the authority to:

(1) Enter any long-term care facility and have access to residents of the facility at a reasonable time and in a reasonable manner. The ombudsman shall have access to review resident records, if given permission by the resident or the resident's legal guardian. Residents of the facility shall have the right to request, deny, or terminate visits with an ombudsman;

(2) Make the necessary inquiries and review such information and records as the ombudsman or representative of the office deems necessary to accomplish the objective of verifying these complaints.

5. The office shall acknowledge complaints, report its findings, make recommendations, gather and disseminate information and other material, and publicize its existence.

6. The ombudsman may recommend to the relevant governmental agency changes in the rules and regulations adopted or proposed by such governmental agency which do or may adversely affect the health, safety, welfare, or civil or human rights of any resident in a facility. The office shall analyze and monitor the development and implementation of federal, state and local laws, regulations and policies with respect to long-term care facilities and services in the state and shall recommend to the department changes in such laws, regulations and policies deemed by the office to be appropriate.

7. The office shall promote community contact and involvement with residents of facilities through the use of volunteers and volunteer programs directed by the regional ombudsman coordinators.

8. The office shall develop and establish by regulation of the department statewide policies and standards for implementing the activities of the ombudsman program, including the qualifications and the training of regional ombudsman coordinators and ombudsman volunteers.

9. The office shall develop and propose programs for use, training and coordination of volunteers in conjunction with the regional ombudsman coordinators and may:

(1) Establish and conduct recruitment programs for volunteers;

(2) Establish and conduct training seminars, meetings and other programs for volunteers; and

(3) Supply personnel, written materials and such other reasonable assistance, including publicizing their activities, as may be deemed necessary.

10. The regional ombudsman coordinators and ombudsman volunteers shall have the authority to report instances of abuse and neglect to the ombudsman hotline operated by the department.

11. If the regional ombudsman coordinator or volunteer finds that a nursing home administrator is not willing to work with the ombudsman program to resolve complaints, the state ombudsman shall be notified. The department shall establish procedures by rule in accordance with chapter 536 for implementation of this subsection.

12. The office shall prepare and distribute to each facility written notices which set forth the address and telephone number of the office, a brief explanation of the function of the office, the procedure to follow in filing a complaint and other pertinent information.

13. The administrator of each facility shall ensure that such written notice is given to every resident or the resident's guardian upon admission to the facility and to every person already in residence, or to his **or her** guardian. The administrator shall also post such written notice in a conspicuous, public place in the facility in the number and manner set forth in the regulations adopted by the department.

14. The office shall inform residents, their guardians or their families of their rights and entitlements under state and federal laws and rules and regulations by means of the distribution of educational materials and group meetings.

[660.605.] 192.1064. CONFIDENTIALITY OF OMBUDSMAN'S FILES AND RECORDS, EXCEPTIONS, VIOLATIONS, PENALTY. — 1. Any files maintained by the ombudsman program shall be disclosed only at the discretion of the ombudsman having authority over the disposition of such files, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed by such ombudsman unless:

(1) Such complainant or resident, or the complainant's or resident's legal representative, consents in writing to such disclosure; or

(2) Such disclosure is required by court order.

2. Any representative of the office conducting or participating in any examination of a complaint who shall knowingly and willfully disclose to any person other than the office, or those authorized by the office to receive it, the name of any witness examined or any information obtained or given upon such examination, shall be guilty of a class A misdemeanor. However, the ombudsman conducting or participating in any examination of a complaint shall disclose the final result of the examination to the facility with the consent of the resident.

3. Any statement or communication made by the office relevant to a complaint received by, proceedings before or activities of the office and any complaint or information made or provided in good faith by any person, shall be absolutely privileged and such person shall be immune from suit.

4. The office shall not be required to testify in any court with respect to matters held to be confidential in this section except as the court may deem necessary to enforce the provisions of sections **[**660.600 to 660.608**] 192.1060 to 192.1066**, or where otherwise required by court order.

[660.608.] 192.1066. IMMUNITY FROM LIABILITY FOR OFFICIAL DUTIES FOR STAFF AND VOLUNTEERS — INFORMATION FURNISHED OFFICE, NO REPRISALS AGAINST EMPLOYEES OF FACILITIES OR RESIDENTS, VIOLATIONS, PENALTY. — 1. Any regional coordinator or local program staff, whether an employee or an unpaid volunteer, shall be treated as a representative of the office. No representative of the office shall be held liable for good faith performance of his **or her** official duties under the provisions of sections **[**660.600 to 660.608**] 192.1060 to 192.1066** and shall be immune from suit for the good faith performance of such duties. Every representative of the office shall be considered a state employee under section 105.711.

2. No reprisal or retaliatory action shall be taken against any resident or employee of a long-term care facility for any communication made or information given to the office. Any person who knowingly or willfully violates the provisions of this subsection shall be guilty of a class A misdemeanor. Any person who serves or served on a quality assessment and assurance committee required under 42 U.S.C. sec. 1396r(b)(1)(B) and 42 CFR sec. 483.75(r), or as amended, shall be immune from civil liability only for acts done directly as a member of such committee so long as the acts are performed in good faith, without malice and are required by the activities of such committee as defined in 42 CFR sec. 483.75(r).

[660.250.] 192.1080. DEFINITIONS. — As used in sections **[**660.250 to 660.321**] 192.1080 to 192.1114**, the following terms mean:

(1) "Abuse", the infliction of physical, sexual, or emotional injury or harm including financial exploitation by any person, firm or corporation;

(2) "Court", the circuit court;

(3) "Department", the department of health and senior services;

(4) "Director", director of the department of health and senior services or his or her designees;

(5) "Eligible adult", a person sixty years of age or older who is unable to protect his or her own interests or adequately perform or obtain services which are necessary to meet his or her essential human needs or an adult with a disability, as defined in section **[**660.053**]** **192.1002**, between the ages of eighteen and fifty-nine who is unable to protect his or her own interests or adequately perform or obtain services which are necessary to meet his or her essential human needs;

(6) "Home health agency", the same meaning as such term is defined in section 197.400;

(7) "Home health agency employee", a person employed by a home health agency;

(8) "Home health patient", an eligible adult who is receiving services through any home health agency;

(9) "In-home services client", an eligible adult who is receiving services in his or her private residence through any in-home services provider agency;

(10) "In-home services employee", a person employed by an in-home services provider agency;

(11) "In-home services provider agency", a business entity under contract with the department or with a Medicaid participation agreement, which employs persons to deliver any kind of services provided for eligible adults in their private homes;

(12) "Least restrictive environment", a physical setting where protective services for the eligible adult and accommodation is provided in a manner no more restrictive of an individual's personal liberty and no more intrusive than necessary to achieve care and treatment objectives;

(13) "Likelihood of serious physical harm", one or more of the following:

(a) A substantial risk that physical harm to an eligible adult will occur because of his or her failure or inability to provide for his or her essential human needs as evidenced by acts or behavior which has caused such harm or which gives another person probable cause to believe that the eligible adult will sustain such harm;

(b) A substantial risk that physical harm will be inflicted by an eligible adult upon himself or herself, as evidenced by recent credible threats, acts, or behavior which has caused such harm or which places another person in reasonable fear that the eligible adult will sustain such harm;

(c) A substantial risk that physical harm will be inflicted by another upon an eligible adult as evidenced by recent acts or behavior which has caused such harm or which gives another person probable cause to believe the eligible adult will sustain such harm;

(d) A substantial risk that further physical harm will occur to an eligible adult who has suffered physical injury, neglect, sexual or emotional abuse, or other maltreatment or wasting of his or her financial resources by another person;

(14) "Neglect", the failure to provide services to an eligible adult by any person, firm or corporation with a legal or contractual duty to do so, when such failure presents either an imminent danger to the health, safety, or welfare of the client or a substantial probability that death or serious physical harm would result;

(15) "Protective services", services provided by the state or other governmental or private organizations or individuals which are necessary for the eligible adult to meet his or her essential human needs.

[660.255.] 192.1082. REPORTS, CONTENTS — DEPARTMENT TO MAINTAIN TELEPHONE FOR REPORTING. — 1. Any person having reasonable cause to suspect that an eligible adult presents a likelihood of suffering serious physical harm and is in need of protective services shall report such information to the department.

2. The report shall be made orally or in writing. It shall include, if known:

(1) The name, age, and address of the eligible adult;

(2) The name and address of any person responsible for the eligible adult's care;
(3) The nature and extent of the eligible adult's condition; and
(4) Other relevant information.

3. Reports regarding persons determined not to be eligible adults as defined in section **[**660.250**]** **192.1080** shall be referred to the appropriate state or local authorities.

4. The department shall maintain a statewide toll free phone number for receipt of reports.

[660.260.] 192.1084. INVESTIGATIONS OF REPORTS OF ELIGIBLE ADULTS, DEPARTMENT PROCEDURES. — Upon receipt of a report, the department shall make a prompt and thorough investigation to determine whether or not an eligible adult is facing a likelihood of serious physical harm and is in need of protective services. The department shall provide for any of the following:

(1) Identification of the eligible adult and determination that the eligible adult is eligible for services;
(2) Evaluation and diagnosis of the needs of eligible adults;
(3) Provision of social casework, counseling or referral to the appropriate local or state authority;
(4) Assistance in locating and receiving alternative living arrangements as necessary;
(5) Assistance in locating and receiving necessary protective services; or
(6) The coordination and cooperation with other state agencies and public and private agencies in exchange of information and the avoidance of duplication of services.

[660.261.] 192.1086. INVESTIGATIONS OF REPORTS OF ELIGIBLE ADULTS BETWEEN EIGHTEEN AND FIFTY-NINE, DEPARTMENT PROCEDURES. — Upon receipt of a report that an eligible adult between the ages of eighteen and fifty-nine is facing a likelihood of serious physical harm, the department shall:

(1) Investigate or refer the report to appropriate law enforcement or state agencies; and
(2) Provide services or refer to local community or state agencies.

[660.263.] 192.1088. RECORDS, WHAT CONFIDENTIAL, WHAT SUBJECT TO DISCLOSURE — PROCEDURE — CENTRAL REGISTRY TO RECEIVE COMPLAINTS OF ABUSE AND NEGLECT. — 1. Reports made pursuant to sections **[**660.250 to 660.295**]** **192.1080 to 192.1100** shall be confidential and shall not be deemed a public record and shall not be subject to the provisions of section 109.180 or chapter 610.

2. Such reports shall be accessible for examination and copying only to the following persons or offices, or to their designees:
(1) The department or any person or agency designated by the department;
(2) The attorney general;
(3) The department of mental health for persons referred to that department;
(4) Any appropriate law enforcement agency; and
(5) The eligible adult or **[**his**]** **such adult's** legal guardian.

3. The name of the reporter shall not be disclosed unless:
(1) Such reporter specifically authorizes disclosure of his **or her** name; and
(2) The department determines that disclosure of the name of the reporter is necessary in order to prevent further harm to an eligible adult.

4. Any person who violates the provisions of this section, or who permits or encourages the unauthorized dissemination of information contained in the central registry and in reports and records made pursuant to sections **[**660.250 to 660.295**]** **192.1080 to 192.1100**, shall be guilty of a class A misdemeanor.

5. The department shall maintain a central registry capable of receiving and maintaining reports received in a manner that facilitates rapid access and recall of the information reported, and of subsequent investigations and other relevant information. The department shall

electronically record any telephone report of suspected abuse and neglect received by the department and such recorded reports shall be retained by the department for a period of one year after recording.

6. Although reports to the central registry may be made anonymously, the department shall in all cases, after obtaining relevant information regarding the alleged abuse or neglect, attempt to obtain the name and address of any person making a report.

[660.265.] 192.1090. ASSISTANCE TO BE GIVEN. — When an eligible adult gives consent to receive protective services, the department shall assist the adult in locating and arranging for necessary services in the least restrictive environment reasonably available.

[660.270.] 192.1092. PROCEDURE WHEN ABUSE, NEGLECT, OR PHYSICAL HARM MAY BE INVOLVED — REMEDIES. — When the department receives a report that there has been abuse or neglect, or that there otherwise is a likelihood of serious physical harm to an eligible adult and that he or she is in need of protective services and the department is unable to conduct an investigation because access to the eligible adult is barred by any person, the director may petition the appropriate court for a warrant or other order to enter upon the described premises and investigate the report or to produce the information. The application for the warrant or order shall identify the eligible adult and the facts and circumstances which require the issuance of the warrant or order. The director may also seek an order to enjoin the person from barring access to an eligible adult or from interfering with the investigation. If the court finds that, based on the report and relevant circumstances and facts, probable cause exists showing that the eligible adult faces abuse or neglect, or otherwise faces a likelihood of serious physical harm and is in need of protective services and the director has been prevented by another person from investigating the report, the court may issue the warrant or enjoin the interference with the investigation or both.

[660.275.] 192.1094. INTERFERENCE WITH DELIVERY OF SERVICES, EFFECT — REMEDY. — If an eligible adult gives consent to receive protective services and any other person interferes with or prevents the delivery of such services, the director may petition the appropriate court for an order to enjoin the interference with the delivery of the services. The petition shall allege the consent of the eligible adult and shall allege specific facts sufficient to show that the eligible adult faces a likelihood of serious physical harm and is in need of the protective services and that delivery is barred by the person named in the petition. If the court finds upon a preponderance of evidence that the allegations in the petition are true, the court may issue an order enjoining the interference with the delivery of the protective services and may establish such conditions and restrictions on the delivery as the court deems necessary and proper under the circumstances.

[660.280.] 192.1096. RECIPIENT UNABLE TO GIVE CONSENT, PROCEDURE, REMEDY. — When an eligible adult facing the likelihood of serious physical harm and in need of protective services is unable to give consent because of incapacity or legal disability and the guardian of the eligible adult refuses to provide the necessary services or allow the provision of such services, the director shall inform the court having supervisory jurisdiction over the guardian of the facts showing that the eligible adult faces the likelihood of serious physical harm and is in need of protective services and that the guardian refuses to provide the necessary services or allow the provision of such services under the provisions of sections **[**660.250 to 660.295**] 192.1080 to 192.1100**. Upon receipt of such information, the court may take such action as it deems necessary and proper to insure that the eligible adult is able to meet his **or her** essential human needs.

[660.285.] 192.1097. DIRECTOR MAY PROCEED UNDER OTHER LAW, WHEN — LEGAL COUNSEL MAY BE RETAINED, WHEN. — 1. If the director determines after an investigation that

an eligible adult is unable to give consent to receive protective services and presents a likelihood of serious physical harm, the director may initiate proceedings pursuant to chapter 202 or chapter 475, if appropriate.

2. In order to expedite adult guardianship and conservatorship cases, the department may retain, within existing funding sources of the department, legal counsel on a case-by-case basis.

[660.290.] 192.1098. PEACE OFFICER MAY ACT, WHEN, HOW — INVOLUNTARY TREATMENT MAY BE ORDERED, HOW, WHERE RENDERED — RELIGIOUS BELIEFS TO BE OBSERVED. — 1. When a peace officer has probable cause to believe that an eligible adult will suffer an imminent likelihood of serious physical harm if not immediately placed in a medical facility for care and treatment, that the adult is incapable of giving consent, and that it is not possible to follow the procedures in section **[**660.285**]** **192.1097**, the officer may transport, or arrange transportation for, the eligible adult to an appropriate medical facility which may admit the eligible adult and shall notify the next of kin, if known, and the director.

2. Where access to the eligible adult is barred and a substantial likelihood exists of serious physical harm resulting to the eligible adult if **[**he**]** **such eligible adult** is not immediately afforded protective services, the peace officer may apply to the appropriate court for a warrant to enter upon the described premises and remove the eligible adult. The application for the warrant shall identify the eligible adult and the circumstances and facts which require the issuance of the warrant.

3. If immediately upon admission to a medical facility, a person who is legally authorized to give consent for the provision of medical treatment for the eligible adult, has not given or refused to give such consent, and it is the opinion of the medical staff of the facility that treatment is necessary to prevent serious physical harm, the director or the head of the medical facility shall file a petition in the appropriate court for an order authorizing specific medical treatment. The court shall hold a hearing and issue its decision forthwith. Notwithstanding the above, if a licensed physician designated by the facility for such purpose examines the eligible adult and determines that the treatment is immediately or imminently necessary and any delay occasioned by the hearing provided in this subsection would jeopardize the life of the person affected, the medical facility may treat the eligible adult prior to such court hearing.

4. The court shall conduct a hearing pursuant to chapter 475 forthwith and, if the court finds the eligible adult incapacitated, it shall appoint a guardian ad litem for the person of the eligible adult to determine the nature and extent of the medical treatment necessary for the benefit of the eligible adult and to supervise the rendition of such treatment. The guardian ad litem shall promptly report the completion of treatment to the court, who shall thereupon conduct a restoration hearing or a hearing to appoint a permanent guardian.

5. The medical care under this section may not be rendered in a mental health facility unless authorized pursuant to the civil commitment procedures in chapter 632.

6. Nothing contained in this section or in any other section of sections **[**660.250 to 660.295**]** **192.1080 to 192.1100** shall be construed as requiring physician or medical care or hospitalization of any person who, because of religious faith or conviction, relies on spiritual means or prayer to cure or prevent disease or suffering nor shall any provision of sections **[**660.250 to 660.295**]** **192.1080 to 192.1100** be construed so as to designate any person as an eligible adult who presents a likelihood of suffering serious physical harm and is in need of protective services solely because such person, because of religious faith or conviction, relies on spiritual means or prayer to cure or prevent disease or suffering.

[660.295.] 192.1100. DISCONTINUANCE OF SERVICES, WHEN — EXCEPTION. — If an eligible adult does not consent to the receipt of reasonable and necessary protective services, or if an eligible adult withdraws previously given consent, the protective services shall not be provided or continued; except that, if the director has reasonable cause to believe that the eligible adult lacks the capacity to consent, the director may seek a court order pursuant to the provisions of section **[**660.285**]** **192.1097**.

[660.300.] 192.1102. REPORT OF ABUSE OR NEGLECT OF IN-HOME SERVICES OR HOME HEALTH AGENCY CLIENT, DUTY — PENALTY — CONTENTS OF REPORT — INVESTIGATION, PROCEDURE — CONFIDENTIALITY OF REPORT — IMMUNITY — RETALIATION PROHIBITED, PENALTY — EMPLOYEE DISQUALIFICATION LIST — SAFE AT HOME EVALUATIONS, PROCEDURE. — 1. When any adult day care worker; chiropractor; Christian Science practitioner; coroner; dentist; embalmer; employee of the departments of social services, mental health, or health and senior services; employee of a local area agency on aging or an organized area agency on aging program; funeral director; home health agency or home health agency employee; hospital and clinic personnel engaged in examination, care, or treatment of persons; in-home services owner, provider, operator, or employee; law enforcement officer; long-term care facility administrator or employee; medical examiner; medical resident or intern; mental health professional; minister; nurse; nurse practitioner; optometrist; other health practitioner; peace officer; pharmacist; physical therapist; physician; physician's assistant; podiatrist; probation or parole officer; psychologist; or social worker has reasonable cause to believe that an in-home services client has been abused or neglected, as a result of in-home services, he or she shall immediately report or cause a report to be made to the department. If the report is made by a physician of the in-home services client, the department shall maintain contact with the physician regarding the progress of the investigation.

2. When a report of deteriorating physical condition resulting in possible abuse or neglect of an in-home services client is received by the department, the client's case manager and the department nurse shall be notified. The client's case manager shall investigate and immediately report the results of the investigation to the department nurse. The department may authorize the in-home services provider nurse to assist the case manager with the investigation.

3. If requested, local area agencies on aging shall provide volunteer training to those persons listed in subsection 1 of this section regarding the detection and report of abuse and neglect pursuant to this section.

4. Any person required in subsection 1 of this section to report or cause a report to be made to the department who fails to do so within a reasonable time after the act of abuse or neglect is guilty of a class A misdemeanor.

5. The report shall contain the names and addresses of the in-home services provider agency, the in-home services employee, the in-home services client, the home health agency, the home health agency employee, information regarding the nature of the abuse or neglect, the name of the complainant, and any other information which might be helpful in an investigation.

6. In addition to those persons required to report under subsection 1 of this section, any other person having reasonable cause to believe that an in-home services client or home health patient has been abused or neglected by an in-home services employee or home health agency employee may report such information to the department.

7. If the investigation indicates possible abuse or neglect of an in-home services client or home health patient, the investigator shall refer the complaint together with his or her report to the department director or his or her designee for appropriate action. If, during the investigation or at its completion, the department has reasonable cause to believe that immediate action is necessary to protect the in-home services client or home health patient from abuse or neglect, the department or the local prosecuting attorney may, or the attorney general upon request of the department shall, file a petition for temporary care and protection of the in-home services client or home health patient in a circuit court of competent jurisdiction. The circuit court in which the petition is filed shall have equitable jurisdiction to issue an ex parte order granting the department authority for the temporary care and protection of the in-home services client or home health patient, for a period not to exceed thirty days.

8. Reports shall be confidential, as provided under section **[**660.320**]** **192.1112**.

9. Anyone, except any person who has abused or neglected an in-home services client or home health patient, who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from the report shall be immune from any civil or

criminal liability for making such a report or for testifying except for liability for perjury, unless such person acted negligently, recklessly, in bad faith, or with malicious purpose.

10. Within five working days after a report required to be made under this section is received, the person making the report shall be notified in writing of its receipt and of the initiation of the investigation.

11. No person who directs or exercises any authority in an in-home services provider agency or home health agency shall harass, dismiss or retaliate against an in-home services client or home health patient, or an in-home services employee or a home health agency employee because he **or she** or any member of his or her family has made a report of any violation or suspected violation of laws, standards or regulations applying to the in-home services provider agency or home health agency or any in-home services employee or home health agency employee which he **or she** has reasonable cause to believe has been committed or has occurred.

12. Any person who abuses or neglects an in-home services client or home health patient is subject to criminal prosecution under section 565.180, 565.182, or 565.184. If such person is an in-home services employee and has been found guilty by a court, and if the supervising in-home services provider willfully and knowingly failed to report known abuse by such employee to the department, the supervising in-home services provider may be subject to administrative penalties of one thousand dollars per violation to be collected by the department and the money received therefor shall be paid to the director of revenue and deposited in the state treasury to the credit of the general revenue fund. Any in-home services provider which has had administrative penalties imposed by the department or which has had its contract terminated may seek an administrative review of the department's action pursuant to chapter 621. Any decision of the administrative hearing commission may be appealed to the circuit court in the county where the violation occurred for a trial de novo. For purposes of this subsection, the term "violation" means a determination of guilt by a court.

13. The department shall establish a quality assurance and supervision process for clients that requires an in-home services provider agency to conduct random visits to verify compliance with program standards and verify the accuracy of records kept by an in-home services employee.

14. The department shall maintain the employee disqualification list and place on the employee disqualification list the names of any persons who have been finally determined by the department, pursuant to section **[**660.315**]** **192.1108**, to have recklessly, knowingly or purposely abused or neglected an in-home services client or home health patient while employed by an in-home services provider agency or home health agency. For purposes of this section only, "knowingly" and "recklessly" shall have the meanings that are ascribed to them in this section. A person acts "knowingly" with respect to the person's conduct when a reasonable person should be aware of the result caused by his or her conduct. A person acts "recklessly" when the person consciously disregards a substantial and unjustifiable risk that the person's conduct will result in serious physical injury and such disregard constitutes a gross deviation from the standard of care that a reasonable person would exercise in the situation.

15. At the time a client has been assessed to determine the level of care as required by rule and is eligible for in-home services, the department shall conduct a "Safe at Home Evaluation" to determine the client's physical, mental, and environmental capacity. The department shall develop the safe at home evaluation tool by rule in accordance with chapter 536. The purpose of the safe at home evaluation is to assure that each client has the appropriate level of services and professionals involved in the client's care. The plan of service or care for each in-home services client shall be authorized by a nurse. The department may authorize the licensed in-home services nurse, in lieu of the department nurse, to conduct the assessment of the client's condition and to establish a plan of services or care. The department may use the expertise, services, or programs of other departments and agencies on a case-by-case basis to establish the plan of service or care. The department may, as indicated by the safe at home evaluation, refer

any client to a mental health professional, as defined in 9 CSR 30-4.030, for evaluation and treatment as necessary.

16. Authorized nurse visits shall occur at least twice annually to assess the client and the client's plan of services. The provider nurse shall report the results of his or her visits to the client's case manager. If the provider nurse believes that the plan of service requires alteration, the department shall be notified and the department shall make a client evaluation. All authorized nurse visits shall be reimbursed to the in-home services provider. All authorized nurse visits shall be reimbursed outside of the nursing home cap for in-home services clients whose services have reached one hundred percent of the average statewide charge for care and treatment in an intermediate care facility, provided that the services have been preauthorized by the department.

17. All in-home services clients shall be advised of their rights by the department or the department's designee at the initial evaluation. The rights shall include, but not be limited to, the right to call the department for any reason, including dissatisfaction with the provider or services. The department may contract for services relating to receiving such complaints. The department shall establish a process to receive such nonabuse and neglect calls other than the elder abuse and neglect hotline.

18. Subject to appropriations, all nurse visits authorized in sections **[**660.250 to 660.300**]** **192.1080 to 192.1102** shall be reimbursed to the in-home services provider agency.

[660.305.] 192.1104. IN-HOME SERVICES CLIENT, MISAPPROPRIATION OF PROPERTY, REPORT — INVESTIGATION — PENALTY — CONFIDENTIALITY OF REPORT — IMMUNITY — RETALIATION PROHIBITED — EMPLOYEE DISQUALIFICATION LIST. — 1. Any person having reasonable cause to believe that a misappropriation of an in-home services client's property or funds, or the falsification of any documents verifying service delivery to the in-home services client has occurred, may report such information to the department.

2. For each report the department shall attempt to obtain the names and addresses of the in-home services provider agency, the in-home services employee, the in-home services client, information regarding the nature of the misappropriation or falsification, the name of the complainant, and any other information which might be helpful in an investigation.

3. Any in-home services provider agency or in-home services employee who puts to his or her own use or the use of the in-home services provider agency or otherwise diverts from the in-home services client's use any personal property or funds of the in-home services client, or falsifies any documents for service delivery, is guilty of a class A misdemeanor.

4. Upon receipt of a report, the department shall immediately initiate an investigation and report information gained from such investigation to appropriate law enforcement authorities.

5. If the investigation indicates probable misappropriation of property or funds, or falsification of any documents for service delivery of an in-home services client, the investigator shall refer the complaint together with the investigator's report to the department director or the director's designee for appropriate action.

6. Reports shall be confidential, as provided under section **[**660.320**]** **192.1112**.

7. Anyone, except any person participating in or benefitting from the misappropriation of funds, who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from the report shall be immune from any civil or criminal liability for making such a report or for testifying except for liability for perjury, unless such person acted negligently, recklessly, in bad faith, or with malicious purpose.

8. Within five working days after a report required to be made under this section is received, the person making the report shall be notified in writing of its receipt and of the initiation of the investigation.

9. No person who directs or exercises any authority in an in-home services provider agency shall harass, dismiss or retaliate against an in-home services client or employee because he or she or any member of his or her family has made a report of any violation or suspected violation of

laws, ordinances or regulations applying to the in-home services provider agency or any in-home services employee which he or she has reasonable cause to believe has been committed or has occurred.

10. The department shall maintain the employee disqualification list and place on the employee disqualification list the names of any persons who are or have been employed by an in-home service provider agency and who have been finally determined by the department to, pursuant to section **[**660.315**]** **192.1108**, have misappropriated any property or funds, or falsified any documents for service delivery of an in-home services client and who came to be known to the person, directly, or indirectly while employed by an in-home services provider agency.

[660.310.] 192.1106. ALTERATION OF IN-HOME SERVICES PROVIDER AGENCY CONTRACTS, PROCEDURE — LETTERS OF CENSURE — STAYING OF SUSPENSIONS — APPEAL PROCESS. — 1. Notwithstanding any other provision of law, if the department of health and senior services proposes to deny, suspend, place on probation, or terminate an in-home services provider agency contract, the department of health and senior services shall serve upon the applicant or contractor written notice of the proposed action to be taken. The notice shall contain a statement of the type of action proposed, the basis for it, the date the action will become effective, and a statement that the applicant or contractor shall have thirty days from the date of mailing or delivery of the notice to file a complaint requesting a hearing before the administrative hearing commission. The administrative hearing commission may consolidate an applicant's or contractor's complaint with any proceeding before the administrative hearing commission filed by such contractor or applicant pursuant to subsection 3 of section 208.156 involving a common question of law or fact. Upon the filing of the complaint, the provisions of sections 621.110, 621.120, 621.125, 621.135, and 621.145 shall apply. With respect to cases in which the department has denied a contract to an in-home services provider agency, the administrative hearing commission shall conduct a hearing to determine the underlying basis for such denial. However, if the administrative hearing commission finds that the contract denial is supported by the facts and the law, the case need not be returned to the department. The administrative hearing commission's decision shall constitute affirmation of the department's contract denial.

2. The department of health and senior services may issue letters of censure or warning without formal notice or hearing.

3. The administrative hearing commission may stay the suspension or termination of an in-home services provider agency's contract, or the placement of the contractor on probation, pending the commission's findings and determination in the cause, upon such conditions, with or without the agreement of the parties, as the commission deems necessary and appropriate, including the posting of bond or other security except that the commission shall not grant a stay, or if a stay has already been entered shall set aside its stay, unless the commission finds that the contractor has established that servicing the **[**department's**]** **MO HealthNet's** clients pending the commission's final determination would not present an imminent danger to the health, safety, or welfare of any client or a substantial probability that death or serious physical harm would result. The commission may remove the stay at any time that it finds that the contractor has violated any of the conditions of the stay. Such stay shall remain in effect, unless earlier removed by the commission, pending the decision of the commission and any subsequent departmental action at which time the stay shall be removed. In any case in which the department has refused to issue a contract, the commission shall have no authority to stay or to require the issuance of a contract pending final determination by the commission.

4. Stays granted to contractors by the administrative hearing commission shall, as a condition of the stay, require at a minimum that the contractor under the stay operate under the same contractual requirements and regulations as are in effect, from time to time, as are applicable to all other contractors in the program.

5. The administrative hearing commission shall make its final decision based upon the circumstances and conditions as they existed at the time of the action of the department and not

based upon circumstances and conditions at the time of the hearing or decision of the commission.

6. In any proceeding before the administrative hearing commission pursuant to this section, the burden of proof shall be on the contractor or applicant seeking review.

7. Any person, including the department, aggrieved by a final decision of the administrative hearing commission may seek judicial review of such decision as provided in section 621.145.

[660.315.] 192.1108. EMPLOYEE DISQUALIFICATION LIST, NOTIFICATION OF PLACEMENT, CONTENTS — CHALLENGE OF ALLEGATION, PROCEDURE — HEARING, PROCEDURE — APPEAL — REMOVAL OF NAME FROM LIST — LIST PROVIDED TO WHOM — PROHIBITION OF EMPLOYMENT. — 1. After an investigation and a determination has been made to place a person's name on the employee disqualification list, that person shall be notified in writing mailed to his or her last known address that:

(1) An allegation has been made against the person, the substance of the allegation and that an investigation has been conducted which tends to substantiate the allegation;

(2) The person's name will be included in the employee disqualification list of the department;

(3) The consequences of being so listed including the length of time to be listed; and

(4) The person's rights and the procedure to challenge the allegation.

2. If no reply has been received within thirty days of mailing the notice, the department may include the name of such person on its list. The length of time the person's name shall appear on the employee disqualification list shall be determined by the director or the director's designee, based upon the criteria contained in subsection 9 of this section.

3. If the person so notified wishes to challenge the allegation, such person may file an application for a hearing with the department. The department shall grant the application within thirty days after receipt by the department and set the matter for hearing, or the department shall notify the applicant that, after review, the allegation has been held to be unfounded and the applicant's name will not be listed.

4. If a person's name is included on the employee disqualification list without the department providing notice as required under subsection 1 of this section, such person may file a request with the department for removal of the name or for a hearing. Within thirty days after receipt of the request, the department shall either remove the name from the list or grant a hearing and set a date therefor.

5. Any hearing shall be conducted in the county of the person's residence by the director of the department or the director's designee. The provisions of chapter 536 for a contested case except those provisions or amendments which are in conflict with this section shall apply to and govern the proceedings contained in this section and the rights and duties of the parties involved. The person appealing such an action shall be entitled to present evidence, pursuant to the provisions of chapter 536, relevant to the allegations.

6. Upon the record made at the hearing, the director of the department or the director's designee shall determine all questions presented and shall determine whether the person shall be listed on the employee disqualification list. The director of the department or the director's designee shall clearly state the reasons for his or her decision and shall include a statement of findings of fact and conclusions of law pertinent to the questions in issue.

7. A person aggrieved by the decision following the hearing shall be informed of his or her right to seek judicial review as provided under chapter 536. If the person fails to appeal the director's findings, those findings shall constitute a final determination that the person shall be placed on the employee disqualification list.

8. A decision by the director shall be inadmissible in any civil action brought against a facility or the in-home services provider agency and arising out of the facts and circumstances which brought about the employment disqualification proceeding, unless the civil action is

brought against the facility or the in-home services provider agency by the department of health and senior services or one of its divisions.

9. The length of time the person's name shall appear on the employee disqualification list shall be determined by the director of the department of health and senior services or the director's designee, based upon the following:

(1) Whether the person acted recklessly or knowingly, as defined in chapter 562;

(2) The degree of the physical, sexual, or emotional injury or harm; or the degree of the imminent danger to the health, safety or welfare of a resident or in-home services client;

(3) The degree of misappropriation of the property or funds, or falsification of any documents for service delivery of an in-home services client;

(4) Whether the person has previously been listed on the employee disqualification list;

(5) Any mitigating circumstances;

(6) Any aggravating circumstances; and

(7) Whether alternative sanctions resulting in conditions of continued employment are appropriate in lieu of placing a person's name on the employee disqualification list. Such conditions of employment may include, but are not limited to, additional training and employee counseling. Conditional employment shall terminate upon the expiration of the designated length of time and the person's submitting documentation which fulfills the department of health and senior services' requirements.

10. The removal of any person's name from the list under this section shall not prevent the director from keeping records of all acts finally determined to have occurred under this section.

11. The department shall provide the list maintained pursuant to this section to other state departments upon request and to any person, corporation, organization, or association who:

(1) Is licensed as an operator under chapter 198;

(2) Provides in-home services under contract with the department **of social services or its divisions**;

(3) Employs nurses and nursing assistants for temporary or intermittent placement in health care facilities;

(4) Is approved by the department to issue certificates for nursing assistants training;

(5) Is an entity licensed under chapter 197;

(6) Is a recognized school of nursing, medicine, or other health profession for the purpose of determining whether students scheduled to participate in clinical rotations with entities described in subdivision (1), (2), or (5) of this subsection are included in the employee disqualification list; or

(7) Is a consumer reporting agency regulated by the federal Fair Credit Reporting Act that conducts employee background checks on behalf of entities listed in subdivisions (1), (2), (5), or (6) of this subsection. Such a consumer reporting agency shall conduct the employee disqualification list check only upon the initiative or request of an entity described in subdivisions (1), (2), (5), or (6) of this subsection when the entity is fulfilling its duties required under this section. The information shall be disclosed only to the requesting entity. The department shall inform any person listed above who inquires of the department whether or not a particular name is on the list. The department may require that the request be made in writing. No person, corporation, organization, or association who is entitled to access the employee disqualification list may disclose the information to any person, corporation, organization, or association who is not entitled to access the list. Any person, corporation, organization, or association who is entitled to access the employee disqualification list who discloses the information to any person, corporation, organization, or association who is not entitled to access the list shall be guilty of an infraction.

12. No person, corporation, organization, or association who received the employee disqualification list under subdivisions (1) to (7) of subsection 11 of this section shall knowingly employ any person who is on the employee disqualification list. Any person, corporation, organization, or association who received the employee disqualification list under subdivisions

(1) to (7) of subsection 11 of this section, or any person responsible for providing health care service, who declines to employ or terminates a person whose name is listed in this section shall be immune from suit by that person or anyone else acting for or in behalf of that person for the failure to employ or for the termination of the person whose name is listed on the employee disqualification list.

13. Any employer or vendor as defined in sections 197.250, 197.400, 198.006, 208.900, or 660.250 required to deny employment to an applicant or to discharge an employee, provisional or otherwise, as a result of information obtained through any portion of the background screening and employment eligibility determination process under section 210.903, or subsequent, periodic screenings, shall not be liable in any action brought by the applicant or employee relating to discharge where the employer is required by law to terminate the employee, provisional or otherwise, and shall not be charged for unemployment insurance benefits based on wages paid to the employee for work prior to the date of discharge, pursuant to section 288.100, if the employer terminated the employee because the employee:

(1) Has been found guilty, pled guilty or nolo contendere in this state or any other state of a crime as listed in subsection 6 of section 660.317;

(2) Was placed on the employee disqualification list under this section after the date of hire;

(3) Was placed on the employee disqualification registry maintained by the department of mental health after the date of hire;

(4) Has a disqualifying finding under this section, section 660.317, or is on any of the background check lists in the family care safety registry under sections 210.900 to 210.936; or

(5) Was denied a good cause waiver as provided for in subsection 10 of section 660.317.

14. Any person who has been listed on the employee disqualification list may request that the director remove his or her name from the employee disqualification list. The request shall be written and may not be made more than once every twelve months. The request will be granted by the director upon a clear showing, by written submission only, that the person will not commit additional acts of abuse, neglect, misappropriation of the property or funds, or the falsification of any documents of service delivery to an in-home services client. The director may make conditional the removal of a person's name from the list on any terms that the director deems appropriate, and failure to comply with such terms may result in the person's name being relisted. The director's determination of whether to remove the person's name from the list is not subject to appeal.

[660.317.] 192.1110. CRIMINAL BACKGROUND CHECKS OF EMPLOYEES, REQUIRED WHEN — PERSONS WITH CRIMINAL HISTORY NOT TO BE HIRED, WHEN, PENALTY — FAILURE TO DISCLOSE, PENALTY — IMPROPER HIRINGS, PENALTY — DEFINITIONS — RULES TO WAIVE HIRING RESTRICTIONS. — 1. For the purposes of this section, the term "provider" means any person, corporation or association who:

(1) Is licensed as an operator pursuant to chapter 198;

(2) Provides in-home services under contract with the department **of social services or its divisions**;

(3) Employs nurses or nursing assistants for temporary or intermittent placement in health care facilities;

(4) Is an entity licensed pursuant to chapter 197;

(5) Is a public or private facility, day program, residential facility or specialized service operated, funded or licensed by the department of mental health; or

(6) Is a licensed adult day care provider.

2. For the purpose of this section "patient or resident" has the same meaning as such term is defined in section 43.540.

3. Prior to allowing any person who has been hired as a full-time, part-time or temporary position to have contact with any patient or resident the provider shall, or in the case of

temporary employees hired through or contracted for an employment agency, the employment agency shall prior to sending a temporary employee to a provider:

(1) Request a criminal background check as provided in section 43.540. Completion of an inquiry to the highway patrol for criminal records that are available for disclosure to a provider for the purpose of conducting an employee criminal records background check shall be deemed to fulfill the provider's duty to conduct employee criminal background checks pursuant to this section; except that, completing the inquiries pursuant to this subsection shall not be construed to exempt a provider from further inquiry pursuant to common law requirements governing due diligence. If an applicant has not resided in this state for five consecutive years prior to the date of his or her application for employment, the provider shall request a nationwide check for the purpose of determining if the applicant has a prior criminal history in other states. The fingerprint cards and any required fees shall be sent to the highway patrol's central repository. The first set of fingerprints shall be used for searching the state repository of criminal history information. If no identification is made, the second set of fingerprints shall be forwarded to the Federal Bureau of Investigation, Identification Division, for the searching of the federal criminal history files. The patrol shall notify the submitting state agency of any criminal history information or lack of criminal history information discovered on the individual. The provisions relating to applicants for employment who have not resided in this state for five consecutive years shall apply only to persons who have no employment history with a licensed Missouri facility during that five-year period. Notwithstanding the provisions of section 610.120, all records related to any criminal history information discovered shall be accessible and available to the provider making the record request; and

(2) Make an inquiry to the department of health and senior services whether the person is listed on the employee disqualification list as provided in section **[**660.315**]** **192.1108**.

4. When the provider requests a criminal background check pursuant to section 43.540, the requesting entity may require that the applicant reimburse the provider for the cost of such record check. When a provider requests a nationwide criminal background check pursuant to subdivision (1) of subsection 3 of this section, the total cost to the provider of any background check required pursuant to this section shall not exceed five dollars which shall be paid to the state. State funding and the obligation of a provider to obtain a nationwide criminal background check shall be subject to the availability of appropriations.

5. An applicant for a position to have contact with patients or residents of a provider shall:

(1) Sign a consent form as required by section 43.540 so the provider may request a criminal records review;

(2) Disclose the applicant's criminal history. For the purposes of this subdivision "criminal history" includes any conviction or a plea of guilty to a misdemeanor or felony charge and shall include any suspended imposition of sentence, any suspended execution of sentence or any period of probation or parole; and

(3) Disclose if the applicant is listed on the employee disqualification list as provided in section **[**660.315**]** **192.1108**.

6. An applicant who knowingly fails to disclose his or her criminal history as required in subsection 5 of this section is guilty of a class A misdemeanor. A provider is guilty of a class A misdemeanor if the provider knowingly hires or retains a person to have contact with patients or residents and the person has been convicted of, pled guilty to or nolo contendere in this state or any other state or has been found guilty of a crime, which if committed in Missouri would be a class A or B felony violation of chapter 565, 566 or 569, or any violation of subsection 3 of section 198.070 or section 568.020.

7. Any in-home services provider agency or home health agency shall be guilty of a class A misdemeanor if such agency knowingly employs a person to provide in-home services or home health services to any in-home services client or home health patient and such person either refuses to register with the family care safety registry or is listed on any of the background check lists in the family care safety registry pursuant to sections 210.900 to 210.937.

8. The highway patrol shall examine whether protocols can be developed to allow a provider to request a statewide fingerprint criminal records review check through local law enforcement agencies.

9. A provider may use a private investigatory agency rather than the highway patrol to do a criminal history records review check, and alternatively, the applicant pays the private investigatory agency such fees as the provider and such agency shall agree.

10. Except for the hiring restriction based on the department of health and senior services employee disqualification list established pursuant to section **[**660.315**]** **192.1108**, the department of health and senior services shall promulgate rules and regulations to waive the hiring restrictions pursuant to this section for good cause. For purposes of this section, "good cause" means the department has made a determination by examining the employee's prior work history and other relevant factors that such employee does not present a risk to the health or safety of residents.

[660.320.] 192.1112. PROHIBITION AGAINST DISCLOSURE OF REPORTS, EXCEPTIONS — EMPLOYMENT SECURITY PROVIDED REPORTS UPON REQUEST. — 1. Reports confidential under section 198.070 and sections **[**660.300 to 660.315**]** **192.1102 to 192.1108** shall not be deemed a public record and shall not be subject to the provisions of section 109.180 or chapter 610. The name of the complainant or any person mentioned in the reports shall not be disclosed unless:

(1) The complainant, resident or the in-home services client mentioned agrees to disclosure of his or her name;

(2) The department determines that disclosure is necessary in order to prevent further abuse, neglect, misappropriation of property or funds, or falsification of any documents verifying service delivery to an in-home services client;

(3) Release of a name is required for conformance with a lawful subpoena;

(4) Release of a name is required in connection with a review by the administrative hearing commission in accordance with section 198.039;

(5) The department determines that release of a name is appropriate when forwarding a report of findings of an investigation to a licensing authority; or

(6) Release of a name is requested **[**by the division of family services**]** for the purpose of licensure under chapter 210.

2. The department shall, upon request, provide to the division of employment security within the department of labor and industrial relations copies of the investigative reports that led to an employee being placed on the disqualification list.

[660.321.] 192.1114. CONFIDENTIALITY OF RECORDS, RECORDS DISCLOSED, WHEN. — Notwithstanding any other provision of law, the department shall not disclose personally identifiable medical, social, personal, or financial records of any eligible adult being served by the division of senior services except when disclosed in a manner that does not identify the eligible adult, or when ordered to do so by a court of competent jurisdiction. Such records shall be accessible without court order for examination and copying only to the following persons or offices, or to their designees:

(1) The department or any person or agency designated by the department for such purposes as the department may determine;

(2) The attorney general, to perform his or her constitutional or statutory duties;

(3) The department of mental health for residents placed through that department, to perform its constitutional or statutory duties;

(4) Any appropriate law enforcement agency, to perform its constitutional or statutory duties;

(5) The eligible adult, his or her legal guardian or any other person designated by the eligible adult; and

(6) The department of social services for individuals who receive Medicaid benefits, to perform its constitutional or statutory duties.

193.075. CERTIFICATES AND REPORTS, FORM, FORMAT, CONTENTS. — 1. The forms of certificates and reports required by sections 193.005 to 193.325 or by regulations adopted hereunder shall include as a minimum the items recommended by the federal agency responsible for national vital statistics.

2. Each certificate, report, and other document required by sections 193.005 to 193.325 shall be on a form or in a format prescribed by the state registrar.

3. All vital records shall contain the date received for registration.

4. Information required in certificates or reports authorized by sections 193.005 to 193.325 may be filed and registered by photographic, electronic, or other means as prescribed by the state registrar.

5. In addition to other personal data required by the registrar to be entered on a birth certificate, each parent shall furnish to the registrar the Social Security account number, or numbers if applicable, issued to the parent unless the registrar finds good cause for not requiring the furnishing of such number or numbers. Good cause shall be determined in accordance with regulations established by the Secretary of the United States Department of Health and Human Services. The registrar shall make numbers furnished under this section available to the **family support** division **[**of child support enforcement**]** of the department of social services. Such numbers shall not be recorded on the birth certificate. The **family support** division **[**of child support enforcement**]** shall not use any Social Security number furnished under the section for any purpose other than for the establishment and enforcement of child support obligations, and the confidentiality provisions and penalties contained in section 454.440 shall apply. Nothing in this section shall be construed to prohibit the department of health and senior services from using Social Security numbers for statistical purposes.

193.215. AMENDMENT OF CERTIFICATES AND REPORTS — ACKNOWLEDGMENT OF PATERNITY AFFIDAVIT, NOTICE TO BE GIVEN PARENTS — RESCISSION OF ACKNOWLEDGMENT, FILING — PATERNITY ESTABLISHMENT SERVICES OFFERED BY DEPARTMENT. — 1. A certificate or report registered pursuant to sections 193.005 to 193.325 may be amended only pursuant to the provisions of sections 193.005 to 193.325, and regulations adopted by the department.

2. A certificate or report that is amended pursuant to this section shall be marked "Amended" except as otherwise provided in this section. The date of amendment and a summary description of the evidence submitted in support of the amendment shall be endorsed on or made part of the record.

3. Upon receipt of a certified copy of an order of a court of competent jurisdiction changing the name of a person born in this state and upon request of such person or such person's parents, guardian, or legal representative, the state registrar shall amend the certificate of birth to show the new name. The court order shall include such facts as are necessary to locate and identify the certificate of birth of the person whose name is being changed.

4. When an applicant does not submit the minimum documentation required in the regulations for amending a vital record or when the state registrar has reasonable cause to question the validity or adequacy of the applicant's sworn statements or the documentary evidence, and if the deficiencies are not corrected, the state registrar shall not amend the vital record and shall advise the applicant of the reason for this action and the applicant's right of appeal to a court of competent jurisdiction.

5. When a certificate or report is amended pursuant to this section, the state registrar shall report the amendment to any other custodians of the vital record and their record shall be amended accordingly.

6. Upon written request of both parents and receipt of a sworn acknowledgment of paternity notarized and signed by both parents of a child born out of wedlock, the state registrar shall amend the certificate of birth to show such paternity. The acknowledgment affidavit form shall be developed by the state registrar and shall include the minimum requirements prescribed by the secretary of the Department of Health and Human Services pursuant to 42 U.S.C. Section 652(a)(7). The acknowledgment form shall include provisions to allow the parents to change the surname of the child and such surname shall be changed on the birth record if the parents elect to change the child's surname. The signature of the parents shall be notarized or the signature shall be witnessed by at least two disinterested adults whose signatures and addresses shall be plainly written thereon. The form shall be accompanied by oral notice, which may be provided through the use of video or audio equipment, and written notice to the mother and putative father of:

(1) The alternatives to, the legal consequences of, and the rights and responsibilities that arise from signing the acknowledgment;

(2) The benefits of having the child's paternity established; and

(3) The availability of paternity establishment and child support enforcement services. A rescission of acknowledgment form shall be filed with the bureau of vital records pursuant to section 210.823 to vacate the legal finding of paternity. The bureau shall file all rescissions and forward a copy of each to the **family support** division **[**of child support enforcement**]**. The birth record shall only be changed pursuant to this subsection upon an order of the court or the **family support** division **[**of child support enforcement**]**.

7. The department shall offer voluntary paternity establishment services.

8. Upon receipt of a certified copy of an order of a court of competent jurisdiction changing the name of a person born in this state and upon request of such person or such person's parents, guardian or legal representative, the state registrar shall amend the certificate of birth to show the new name.

9. Upon receipt of a certified copy of an order of a court of competent jurisdiction indicating the sex of an individual born in this state has been changed by surgical procedure and that such individual's name has been changed, the certificate of birth of such individual shall be amended.

196.1103. BOARD ESTABLISHED — APPOINTMENT, TERMS, QUALIFICATIONS, EXPENSES, APPOINTMENT TO LIFE SCIENCES COMMITTEE NOT TO DISQUALIFY FOR MEMBERSHIP ON BOARD. — The management, governance, and control of moneys appropriated from the life sciences research trust fund shall be vested in the "Life Sciences Research Board" which is hereby created in the **[**office of administration**] department of economic development** as a type III **[**division**] agency** and which shall consist of seven members. The following provisions shall apply to the life sciences research board and its members:

(1) Each member shall be appointed by the governor with the advice and consent of the senate pursuant to the procedures herein set forth for a term of four years; except that, of the initial members of the board appointed, three shall be appointed for two-year terms and four shall be appointed to four-year terms;

(2) The members of the board shall be generally familiar with the life sciences and current research trends and developments with either technical or scientific expertise in life sciences and with an understanding of the application of the results of life sciences research. The appointment of a person to the life sciences research committee created by Executive Order 01-10 issued by the governor on July 23, 2001, shall not disqualify a person from serving as a member, either contemporaneously or later, on the life sciences research board;

(3) No member of the life sciences research board shall serve more than two consecutive full four-year terms;

(4) The members of the life sciences research board shall receive no salary or other compensation for their services as a member of the board, but shall receive reimbursement for

their actual and necessary expenses incurred in performance of their duties as members of the board.

197.312. CERTIFICATE OF NEED NOT REQUIRED FOR ST. LOUIS RESIDENTIAL CARE FACILITIES AND ASSISTED LIVING FACILITIES — CERTAIN OTHER FACILITIES, CERTIFICATE NOT REQUIRED. — A certificate of need shall not be required for any institution previously owned and operated for or in behalf of a city not within a county which chooses to be licensed as a facility defined under subdivision **[**(21) or**]** (22) **or (23)** of section 198.006 for a facility of ninety beds or less that is owned or operated by a not-for-profit corporation which is exempt from federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, which is controlled directly by a religious organization and which has received approval by the **[**division of aging**] department of health and senior services** of plans for construction of such facility by August 1, 1995, and is licensed by the **[**division of aging**] department of health and senior services** by July 1, 1996, as a facility defined under subdivision **[**(21) or**]** (22) **or (23)** of section 198.006 or for a facility, serving exclusively mentally ill, homeless persons, of sixteen beds or less that is owned or operated by a not-for-profit corporation which is exempt from federal income tax which is described in section 501(c)(3) of the Internal Revenue Code of 1986, which is controlled directly by a religious organization and which has received approval by the **[**division of aging**] department of health and senior services** of plans for construction of such facility by May 1, 1996, and is licensed by the **[**division of aging**] department of health and senior services** by July 1, 1996, as a facility defined under subdivision **[**(21) or**]** (22) **or (23)** of section 198.006 or an assisted living facility located in a city not within a county operated by a not for profit corporation which is exempt from federal income tax which is described in section 501(c)(3) of the Internal Revenue Code of 1986, which is controlled directly by a religious organization and which is licensed for one hundred beds or less on or before August 28, 1997.

197.318. LICENSED AND AVAILABLE, DEFINED — REVIEW OF LETTERS OF INTENT — APPLICATION OF LAW IN PENDING COURT CASES — EXPANSION PROCEDURES. — 1. As used in this section, the term "licensed and available" means beds which are actually in place and for which a license has been issued.

2. The committee shall review all letters of intent and applications for long-term care hospital beds meeting the requirements described in 42 CFR, Section 412.23(e) under its criteria and standards for long-term care beds.

3. Sections 197.300 to 197.366 shall not be construed to apply to litigation pending in state court on or before April 1, 1996, in which the Missouri health facilities review committee is a defendant in an action concerning the application of sections 197.300 to 197.366 to long-term care hospital beds meeting the requirements described in 42 CFR, Section 412.23(e).

4. Notwithstanding any other provision of this chapter to the contrary:

(1) A facility licensed pursuant to chapter 198 may increase its licensed bed capacity by:

(a) Submitting a letter of intent to expand to the **[**division of aging**] department of health and senior services** and the health facilities review committee;

(b) Certification from the **[**division of aging**] department of health and senior services** that the facility:

a. Has no patient care class I deficiencies within the last eighteen months; and

b. Has maintained a ninety-percent average occupancy rate for the previous six quarters;

(c) Has made an effort to purchase beds for eighteen months following the date the letter of intent to expand is submitted pursuant to paragraph (a) of this subdivision. For purposes of this paragraph, an "effort to purchase" means a copy certified by the offeror as an offer to purchase beds from another licensed facility in the same licensure category; and

(d) If an agreement is reached by the selling and purchasing entities, the health facilities review committee shall issue a certificate of need for the expansion of the purchaser facility upon surrender of the seller's license; or

(e) If no agreement is reached by the selling and purchasing entities, the health facilities review committee shall permit an expansion for:

a. A facility with more than forty beds may expand its licensed bed capacity within the same licensure category by twenty-five percent or thirty beds, whichever is greater, if that same licensure category in such facility has experienced an average occupancy of ninety-three percent or greater over the previous six quarters;

b. A facility with fewer than forty beds may expand its licensed bed capacity within the same licensure category by twenty-five percent or ten beds, whichever is greater, if that same licensure category in such facility has experienced an average occupancy of ninety-two percent or greater over the previous six quarters;

c. A facility adding beds pursuant to subparagraphs a. or b. of this paragraph shall not expand by more than fifty percent of its then licensed bed capacity in the qualifying licensure category;

(2) Any beds sold shall, for five years from the date of relicensure by the purchaser, remain unlicensed and unused for any long-term care service in the selling facility, whether they do or do not require a license;

(3) The beds purchased shall, for two years from the date of purchase, remain in the bed inventory attributed to the selling facility and be considered by the department of social services as licensed and available for purposes of this section;

(4) Any residential care facility licensed pursuant to chapter 198 may relocate any portion of such facility's current licensed beds to any other facility to be licensed within the same licensure category if both facilities are under the same licensure ownership or control, and are located within six miles of each other;

(5) A facility licensed pursuant to chapter 198 may transfer or sell individual long-term care licensed beds to facilities qualifying pursuant to paragraphs (a) and (b) of subdivision (1) of this subsection. Any facility which transfers or sells licensed beds shall not expand its licensed bed capacity in that licensure category for a period of five years from the date the licensure is relinquished.

5. Any existing licensed and operating health care facility offering long-term care services may replace one-half of its licensed beds at the same site or a site not more than thirty miles from its current location if, for at least the most recent four consecutive calendar quarters, the facility operates only fifty percent of its then licensed capacity with every resident residing in a private room. In such case:

(1) The facility shall report to the **[**division of aging**]** **health and senior services** vacant beds as unavailable for occupancy for at least the most recent four consecutive calendar quarters;

(2) The replacement beds shall be built to private room specifications and only used for single occupancy; and

(3) The existing facility and proposed facility shall have the same owner or owners, regardless of corporate or business structure, and such owner or owners shall stipulate in writing that the existing facility beds to be replaced will not later be used to provide long-term care services. If the facility is being operated under a lease, both the lessee and the owner of the existing facility shall stipulate the same in writing.

6. Nothing in this section shall prohibit a health care facility licensed pursuant to chapter 198 from being replaced in its entirety within fifteen miles of its existing site so long as the existing facility and proposed or replacement facility have the same owner or owners regardless of corporate or business structure and the health care facility being replaced remains unlicensed and unused for any long-term care services whether they do or do not require a license from the date of licensure of the replacement facility.

197.367. LICENSED BED LIMITATION IMPOSED, WHEN. — Upon application for renewal by any residential care facility or assisted living facility which on the effective date of this act has been licensed for more than five years, is licensed for more than fifty beds and fails to maintain

for any calendar year its occupancy level above thirty percent of its then licensed beds, the **[**division of aging**]** **department of health and senior services** shall license only fifty beds for such facility.

198.018. APPLICATIONS FOR LICENSE, HOW MADE — FEES — AFFIDAVIT — DOCUMENTS REQUIRED TO BE FILED — NURSING FACILITY QUALITY OF CARE FUND CREATED — FACILITIES MAY NOT BE LICENSED BY POLITICAL SUBDIVISIONS, BUT THEY MAY INSPECT. — 1. Applications for a license shall be made to the department by the operator upon such forms and including such information and documents as the department may reasonably require by rule or regulation for the purposes of administering sections 198.003 to 198.186, section 198.200, and sections 208.030 and 208.159.

2. The applicant shall submit all documents required by the department under this section attesting by signature that the statements contained in the application are true and correct to the best of the applicant's knowledge and belief, and that all required documents are either included with the application or are currently on file with the department.

3. The application shall be accompanied by a license fee in an amount established by the department. The fee established by the department shall not exceed six hundred dollars, and shall be a graduated fee based on the licensed capacity of the applicant and the duration of the license. A fee of not more than fifty dollars shall be charged for any amendments to a license initiated by an applicant. In addition, facilities certified to participate in the Medicaid or Medicare programs shall pay a certification fee of up to one thousand dollars annually, payable on or before October first of each year. The amount remitted for the license fee, fee for amendments to a license, or certification fee shall be deposited in the state treasury to the credit of the "Nursing Facility Quality of Care Fund", which is hereby created. All investment earnings of the nursing facility quality of care fund shall be credited to such fund. All moneys in the nursing facility quality of care fund shall, upon appropriation, be used by the **[**division of aging**]** **department of health and senior services** for conducting inspections and surveys, and providing training and technical assistance to facilities licensed under the provisions of this chapter. The unexpended balance in the nursing facility quality of care fund at the end of the biennium is exempt from the provisions of sections 33.080. The unexpended balance in the nursing facility quality of care fund shall not revert to the general revenue fund, but shall accumulate in the nursing facility quality of care fund from year to year.

4. Within ten working days of the effective date of any document that replaces, succeeds, or amends any of the documents required by the department to be filed pursuant to this section, an operator shall file with the department a copy of such document. The operator shall attest by signature that the document is true and correct. If the operator knowingly fails to file a required document or provide any information amending any document within the time provided for in this section, a circuit court may, upon application of the department or the attorney general, assess a penalty of up to fifty dollars per document for each day past the required date of filing.

5. If an operator fails to file documents or amendments to documents as required pursuant to this section and such failure is part of a pattern or practice of concealment, such failure shall be sufficient grounds for revocation of a license or disapproval of an application for a license.

6. Any facility defined in subdivision **[**(8), (15), (16) or (17)**]** **(6), (14), (22), or (23)** of section 198.006 that is licensed by the state of Missouri pursuant to the provisions of section 198.015 may not be licensed, certified or registered by any other political subdivision of the state of Missouri whether or not it has taxing power, provided, however, that nothing in this subsection shall prohibit a county or city, otherwise empowered under law, to inspect such facility for compliance with local ordinances of food service or fire safety.

198.026. NONCOMPLIANCE, HOW DETERMINED — PROCEDURE TO CORRECT — NOTICE — REINSPECTION — PROBATIONARY LICENSE. — 1. Whenever a duly authorized representative of the department finds upon an inspection of a facility that it is not in compliance

with the provisions of sections 198.003 to 198.096 and the standards established thereunder, the operator or administrator shall be informed of the deficiencies in an exit interview conducted with the operator or administrator**,** or his **or her** designee. The department shall inform the operator or administrator, in writing, of any violation of a class I standard at the time the determination is made. A written report shall be prepared of any deficiency for which there has not been prompt remedial action, and a copy of such report and a written correction order shall be sent to the operator or administrator by certified mail or other delivery service that provides a dated receipt of delivery at the facility address within ten working days after the inspection, stating separately each deficiency and the specific statute or regulation violated.

2. The operator or administrator shall have five working days following receipt of a written report and correction order regarding a violation of a class I standard and ten working days following receipt of the report and correction order regarding violations of class II or class III standards to request any conference and to submit a plan of correction for the department's approval which contains specific dates for achieving compliance. Within five working days after receiving a plan of correction regarding a violation of a class I standard and within ten working days after receiving a plan of correction regarding a violation of a class II or III standard, the department shall give its written approval or rejection of the plan. If there was a violation of any class I standard, immediate corrective action shall be taken by the operator or administrator and a written plan of correction shall be submitted to the department. The department shall give its written approval or rejection of the plan and if the plan is acceptable, a reinspection shall be conducted within twenty calendar days of the exit interview to determine if deficiencies have been corrected. If there was a violation of any class II standard and the plan of correction is acceptable, an unannounced reinspection shall be conducted between forty and ninety calendar days from the date of the exit conference to determine the status of all previously cited deficiencies. If there was a violation of class III standards sufficient to establish that the facility was not in substantial compliance, an unannounced reinspection shall be conducted within one hundred twenty days of the exit interview to determine the status of previously identified deficiencies.

3. If, following the reinspection, the facility is found not in substantial compliance with sections 198.003 to 198.096 and the standards established thereunder or the operator is not correcting the noncompliance in accordance with the approved plan of correction, the department shall issue a notice of noncompliance, which shall be sent by certified mail or other delivery service that provides a dated receipt of delivery to each person disclosed to be an owner or operator of the facility, according to the most recent information or documents on file with the department.

4. The notice of noncompliance shall inform the operator or administrator that the department may seek the imposition of any of the sanctions and remedies provided for in section 198.067, or any other action authorized by law.

5. At any time after an inspection is conducted, the operator may choose to enter into a consent agreement with the department to obtain a probationary license. The consent agreement shall include a provision that the operator will voluntarily surrender the license if substantial compliance is not reached in accordance with the terms and deadlines established under the agreement. The agreement shall specify the stages, actions and time span to achieve substantial compliance.

6. Whenever a notice of noncompliance has been issued, the operator shall post a copy of the notice of noncompliance and a copy of the most recent inspection report in a conspicuous location in the facility, and the department shall send a copy of the notice of noncompliance to the **[**division of family services of the**]** department of social services, the department of mental health, and any other concerned federal, state or local governmental agencies.

198.029. NONCOMPLIANCE — NOTICE TO OPERATOR AND PUBLIC, WHEN — NOTICE OF NONCOMPLIANCE POSTED. — The provisions of section 198.026 notwithstanding, whenever

a duly authorized representative of the department finds upon inspection of a licensed facility, and the director of the department finds upon review, that the facility or the operator is not in substantial compliance with a standard or standards the violations of which would present either an imminent danger to the health, safety or welfare of any resident or a substantial probability that death or serious physical harm would result and which is not immediately corrected, the department shall:

(1) Give immediate written notice of the noncompliance to the operator, administrator or person managing or supervising the conduct of the facility at the time the noncompliance is found;

(2) Make public the fact that a notice of noncompliance has been issued to the facility. Copies of the notice shall be sent to appropriate hospitals and social service agencies;

(3) Send a copy of the notice of noncompliance to the **[**division of family services of the**]** department of social services, the department of mental health, and any other concerned federal, state or local government agencies. The facility shall post in a conspicuous location in the facility a copy of the notice of noncompliance and a copy of the most recent inspection report.

198.077. DEPARTMENT TO MAINTAIN FACILITY COMPLIANCE RECORDS. — For any residential care facility, assisted living facility, intermediate care facility or skilled nursing facility, if the department of **[**social**] health and senior** services maintains records of site inspections and violations of statutes, rules, or the terms or conditions of any license issued to such facility, the department shall also maintain records of compliance with such statutes, rules, or terms or conditions of any license, and shall specifically record in such records any actions taken by the facility that are above and beyond what is minimally required for compliance.

198.080. ASSESSMENT PROCEDURES DEVELOPED — RULEMAKING AUTHORITY. — The **[**division of aging**] department of health and senior services** shall develop flexible assessment procedures for individuals in long-term care and those considering long-term care services which follow the individual through the continuum of care, including periodic reassessment. By January 1, 2002, the **[**division of aging**] department of health and senior services** shall promulgate rules and regulations to implement the new assessment system and shall make a report to the appropriate house and senate committees of the general assembly regarding the new assessment system. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

198.087. UNIFORMITY OF APPLICATION OF REGULATION STANDARDS, DEPARTMENT'S DUTIES. — To ensure uniformity of application of regulation standards in long-term care facilities throughout the state, the department of **[**social**] health and senior** services shall:

(1) Evaluate the requirements for inspectors or surveyors of facilities, including the eligibility, training and testing requirements for the position. Based on the evaluation, the department shall develop and implement additional training and knowledge standards for inspectors and surveyors;

(2) Periodically evaluate the performance of the inspectors or surveyors regionally and statewide to identify any deviations or inconsistencies in regulation application. At a minimum, the Missouri on-site surveyor evaluation process, and the number and type of actions overturned by the informal dispute resolution process and formal appeal shall be used in the evaluation. Based on such evaluation, the department shall develop standards and a retraining process for the region, state, or individual inspector or surveyor, as needed;

(3) In addition to the provisions of subdivisions (1) and (2) of this section, the department shall develop a single uniform comprehensive and mandatory course of instruction for inspectors/surveyors on the practical application of enforcement of statutes, rules and regulations. Such course shall also be open to attendance by administrators and staff of facilities licensed pursuant to this chapter;

(4) **[**With the full cooperation of and in conjunction with the department of health and senior services,**]** Evaluate the implementation and compliance of the provisions of subdivision (3) of subsection 1 of section 198.012 in which rules, requirements, regulations and standards pursuant to section 197.080 for assisted living facilities, intermediate care facilities and skilled nursing facilities attached to an acute care hospital are consistent with the intent of this chapter; and

(5) **[**With the full cooperation and in conjunction with the department of health and senior services,**]** Develop rules and regulations requiring the exchange of information, including regulatory violations, between the **[**departments**] department and the department of social services** to ensure the protection of individuals who are served by health care providers regulated by either the department **[**of health and senior services or the department of social services**]**.

198.090. PERSONAL POSSESSIONS MAY BE HELD IN TRUST, REQUIREMENTS, DISPOSAL OF — WRITTEN STATEMENTS REQUIRED WHEN, PENALTY — PROHIBITIONS, PENALTIES — MISAPPROPRIATION, REPORT, INVESTIGATION — EMPLOYEE DISQUALIFICATION LIST. — 1. An operator may make available to any resident the service of holding in trust personal possessions and funds of the resident and shall, as authorized by the resident, expend the funds to meet the resident's personal needs. In providing this service the operator shall:

(1) At the time of admission, provide each resident or **[**his**] such resident's** next of kin or legal guardian with a written statement explaining the resident's rights regarding personal funds;

(2) Accept funds and personal possessions from or for a resident for safekeeping and management, only upon written authorization by the resident or by **[**his**] such resident's** designee, or guardian in the case of an adjudged incompetent;

(3) Deposit any personal funds received from or on behalf of a resident in an account separate from the facility's funds, except that an amount to be established by rule of the **[**division of aging**] department of health and senior services** may be kept in a petty cash fund for the resident's personal needs;

(4) Keep a written account, available to a resident and **[**his**] such resident's** designee or guardian, maintained on a current basis for each resident, with written receipts, for all personal possessions and funds received by or deposited with the facility and for all disbursements made to or on behalf of the resident;

(5) Provide each resident or **[**his**] such resident's** designee or guardian with a quarterly accounting of all financial transactions made on behalf of the resident;

(6) Within five days of the discharge of a resident, provide the resident, or **[**his**] such resident's** designee or guardian, with an up-to-date accounting of the resident's personal funds and return to the resident the balance of his **or her** funds and all his **or her** personal possessions;

(7) Upon the death of a resident who has been a recipient of aid, assistance, care, services, or who has had moneys expended on **[**his**] such resident's** behalf by the department of social services, provide the department a complete account of all the resident's personal funds within sixty days from the date of death. The total amount paid to the decedent or expended upon **[**his**] such decedent's** behalf by the department shall be a debt due the state and recovered from the available funds upon the department's claim on such funds. The department shall make a claim on the funds within sixty days from the date of the accounting of the funds by the facility. The nursing facility shall pay the claim made by the department of social services from the resident's personal funds within sixty days. Where the name and address are reasonably ascertainable, the department of social services shall give notice of the debt due the state to the person whom the recipient had designated to receive the quarterly accounting of all financial transactions made

under this section, or the resident's guardian or conservator or the person or persons listed in nursing home records as a responsible party or the fiduciary of the resident's estate. If any funds are available after the department's claim, the remaining provisions of this section shall apply to the balance, unless the funds belonged to a person other than the resident, in which case the funds shall be paid to that person;

(8) Upon the death of a resident who has not been a recipient of aid, assistance, care, services, or who has not had moneys expended on **[**his**]** **such resident's** behalf by the department of social services or the department has not made a claim on the funds, provide the fiduciary of resident's estate, at the fiduciary's request, a complete account of all the resident's personal funds and possessions and deliver to the fiduciary all possessions of the resident and the balance of the resident's funds. If, after one year from the date of death, no fiduciary makes claim upon such funds or possessions, the operator shall notify the department that the funds remain unclaimed. Such unclaimed funds or possessions shall be disposed of as follows:

(a) If the unclaimed funds or possessions have a value totaling one hundred and fifty dollars or less, the funds or the proceeds of the sale of the possessions may be deposited in a fund to be used for the benefit of all residents of the facility by providing the residents social or educational activities. The facility shall keep an accounting of the acquisitions and expenditure of these funds; or

(b) If the unclaimed funds or possessions have a value greater than one hundred and fifty dollars, the funds or possessions shall be immediately presumed to be abandoned property under sections 447.500 to 447.585 and the procedures provided for in those sections shall apply notwithstanding any other provisions of those sections which require a period greater than two years for a presumption of abandonment;

(9) Upon ceasing to be the operator of a facility, all funds and property held in trust pursuant to this section shall be transferred to the new operator in accordance with sound accounting principles, and a closeout report signed by both the outgoing operator and the successor operator shall be prepared. The closeout report shall include a list of current balances of all funds held for residents respectively and an inventory of all property held for residents respectively. If the outgoing operator refuses to sign the closeout report, **[**he**]** **such operator** shall state in writing the specific reasons for his **or her** failure to so sign, and the successor operator shall complete the report and attach an affidavit stating that the information contained therein is true to the best of his **or her** knowledge and belief. Such report shall be retained with all other records and accounts required to be maintained under this section;

(10) Not be required to invest any funds received from or on behalf of a resident, nor to increase the principal of any such funds.

2. Any owner, operator, manager, employee, or affiliate of an owner or operator who receives any personal property or anything else of value from a resident, shall, if the thing received has a value of ten dollars or more, make a written statement giving the date it was received, from whom it was received, and its estimated value. Statements required to be made pursuant to this subsection shall be retained by the operator and shall be made available for inspection by the department, or by the department of mental health when the resident has been placed by that department, and by the resident, and **[**his**]** **such resident's** designee or legal guardian. Any person who fails to make a statement required by this subsection is guilty of a class C misdemeanor.

3. No owner, operator, manager, employee, or affiliate of an owner or operator shall in one calendar year receive any personal property or anything else of value from the residents of any facility which have a total estimated value in excess of one hundred dollars.

4. Subsections 2 and 3 of this section shall not apply if the property or other thing of value is held in trust in accordance with subsection 1 of this section, is received in payment for services rendered or pursuant to the terms of a lawful contract, or is received from a resident who is related to the recipient within the fourth degree of consanguinity or affinity.

5. Any operator who fails to maintain records or who fails to maintain any resident's personal funds in an account separate from the facility's funds as required by this section shall be guilty of a class C misdemeanor.

6. Any operator, or any affiliate or employee of an operator, who puts to his **or her** own use or the use of the facility or otherwise diverts from the resident's use any personal funds of the resident shall be guilty of a class A misdemeanor.

7. Any person having reasonable cause to believe that a misappropriation of a resident's funds or property has occurred may report such information to the department.

8. For each report the division shall attempt to obtain the name and address of the facility, the name of the facility employee, the name of the resident, information regarding the nature of the misappropriation, the name of the complainant, and any other information which might be helpful in an investigation.

9. Upon receipt of a report, the department shall initiate an investigation.

10. If the investigation indicates probable misappropriation of property or funds of a resident, the investigator shall refer the complaint together with his **or her** report to the department director or **[**his**]** **the director's** designee for appropriate action.

11. Reports shall be confidential, as provided under section **[**660.320**]** **192.1112**.

12. Anyone, except any person participating in or benefitting from the misappropriation of funds, who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from the report shall be immune from any civil or criminal liability for making such a report or for testifying except for liability for perjury, unless such person acted negligently, recklessly, in bad faith, or with malicious purpose.

13. Within five working days after a report required to be made under this section is received, the person making the report shall be notified in writing of its receipt and of the initiation of the investigation.

14. No person who directs or exercises any authority in a facility shall evict, harass, dismiss or retaliate against a resident or employee because he **or she** or any member of his **or her** family has made a report of any violation or suspected violation of laws, ordinances or regulations applying to the facility which he **or she** has reasonable cause to believe has been committed or has occurred.

15. The department shall maintain the employee disqualification list and place on the employee disqualification list the names of any persons who have been finally determined by the department, pursuant to section **[**660.315**]** **192.1108**, to have misappropriated any property or funds of a resident while employed in any facility.

198.189. MEDICAID PAYMENT SYSTEM FOR ASSISTED LIVING FACILITIES TO BE IMPLEMENTED — OPTIONS. — The department of social services, **MO HealthNet** division **[**of medical services**]** **,** and the department of health and senior services, division of senior and disability services shall work together to implement a new Medicaid payment system for assisted living facilities defined in section 198.006. The departments shall look at possible options including but not limited to federal Medicaid waivers, state plan amendments, and provisions of the federal Deficit Reduction Act of 2005 that will allow a tiered rate system via a bundled monthly rate for all services not included in the room and board function of the facility, including but not limited to: adult day care/socialization activities, escort services, essential shopping, health maintenance activities, housekeeping activities, meal preparation, laundry services, medication assistance (set-up and administration), personal care services, assistance with activities of daily living and instrumental activities of daily living, transportation services, nursing supervision, health promotion and exercise programming, emergency call systems, incontinence supplies, and companion services. The amount of the personal funds allowance for the Medicaid recipient residing in an assisted living facility shall include enough money for over-the-counter medications and co-payments for Medicaid and Medicare Part D services. The departments shall work with assisted living facility provider groups in developing this new payment system.

The department of social services shall submit all necessary applications for implementing this new system singularly or within a multiservice state Medicaid waiver application to the secretary of the federal Department of Health and Human Services by July 1, 2007.

198.421. ALLOWANCE PERIOD, NOTIFICATION BY DEPARTMENT, DELINQUENT ALLOWANCE — LIEN, ENFORCEMENT, SANCTIONS — EFFECT UPON LICENSE. — 1. A nursing facility reimbursement allowance period as provided in sections 198.401 to 198.436 shall be from the first day of October to the thirtieth day of September. The department shall notify each nursing facility with a balance due on the thirtieth day of September of each year the amount of such balance due. If any nursing home fails to pay its nursing facility reimbursement allowance within thirty days of such notice, the reimbursement allowance shall be delinquent. The reimbursement allowance may remain unpaid during an appeal or as allowed in section 198.412.

2. Except as otherwise provided in this section, if any reimbursement allowance imposed under the provision of section 198.401 for a previous reimbursement allowance period is unpaid and delinquent, the department of social services may proceed to enforce the state's lien against the property of the nursing facility and to compel the payment of such reimbursement allowance in the circuit court having jurisdiction in the county where the nursing facility is located. In addition, the director of the department of social services or the director's designee may cancel or refuse to issue, extend or reinstate a Medicaid provider agreement to any nursing facility which fails to pay such delinquent reimbursement allowance required by section 198.401 unless under appeal as allowed in section 198.412.

3. Except as otherwise provided in this section, failure to pay a delinquent reimbursement allowance imposed under section 198.401 shall be grounds for denial, suspension or revocation of a license granted under this chapter. The director of the department of **[**social**]** **health and senior** services may deny, suspend or revoke the license of any nursing facility which fails to pay a delinquent reimbursement allowance unless under appeal as allowed in section 198.412.

198.428. MEDICAID ELIGIBILITY PRESUMED PENDING APPROVAL OR DENIAL OF APPLICATION, WHEN. — If the **family support** division **[**of family services**]** is unable to make a determination regarding Medicaid eligibility for a resident within sixty days of the submission of a completed application for medical assistance for nursing facility services, the patient shall be Medicaid eligible until the application is approved or denied. However, in no event shall benefits be construed to commence prior to the date of application.

198.510. DISCLOSURE REQUIRED, BY WHOM — LICENSING DEPARTMENT, DUTIES — DEPARTMENT OF HEALTH AND SENIOR SERVICES, DUTIES. — 1. Any facility which offers to provide or provides care for persons with Alzheimer's disease by means of an Alzheimer's special care unit or Alzheimer's special care program shall be required to disclose the form of care or treatment provided that distinguishes that unit or program as being especially applicable, or suitable for persons with Alzheimer's or dementia. The disclosure shall be made to the department which licenses the facility, agency or center giving the special care. At the time of admission of a patient requiring treatment rendered by the Alzheimer's special care program, a copy of the disclosure made to the department shall be delivered by the facility to the patient and the patient's next of kin, designee, or guardian. The licensing department shall examine all such disclosures in the department's records and verify the information on the disclosure for accuracy as part of the facility's regular license renewal procedure.

2. The **[**department of social services and the**]** department of health and senior services shall develop a single disclosure form to be completed by the facility, agency or center giving the special care. The information required to be disclosed by subsection 1 of this section on this form shall include, if applicable, an explanation of how the care is different from the rest of the facility in the following areas:

(1) The Alzheimer's special care unit's or program's written statement of its overall philosophy and mission which reflects the need of residents afflicted with dementia;

(2) The process and criteria for placement in, transfer or discharge from, the unit or program;

(3) The process used for assessment and establishment of the plan of care and its implementation, including the method by which the plan of care evolves and is responsive to changes in condition;

(4) Staff training and continuing education practices;

(5) The physical environment and design features appropriate to support the functioning of cognitively impaired adult residents;

(6) The frequency and types of resident activities;

(7) The involvement of families and the availability of family support programs;

(8) The costs of care and any additional fees; and

(9) Safety and security measures.

198.515. ALZHEIMER'S FACILITIES, INFORMATIONAL DOCUMENTS REQUIRED — DEPARTMENT, DUTIES — LICENSING DEPARTMENT, VERIFICATION. — Any facility which offers to provide or provides care for persons with Alzheimer's disease by means of an Alzheimer's special care unit or Alzheimer's special care program shall be required to provide an informational document developed by or approved by the **[**division of aging**]** **department of health and senior services**. The document shall include but is not limited to updated information on selecting an Alzheimer's special care unit or Alzheimer's special care program. The document shall be given to any person seeking information about or placement in an Alzheimer's special care unit or Alzheimer's special care program. The distribution of this document shall be verified by the licensing department as part of the facility's regular license renewal procedure.

205.960. FOOD STAMP PLAN AUTHORIZED — PAYMENTS TO BE MADE ONLY WHEN FEDERAL FUNDS ARE AVAILABLE. — The **family support** division of **[**family services**]** **the department of social services** by itself, or upon the application of the county commission, or the governing body of any county or city not within a county, may establish and put into effect in any county or any city not within a county a program for the distribution of federally donated commodities or for the sale and issuance of federal food stamps or coupons to needy persons and participating families pursuant to any act of Congress of the United States; and may execute agreements necessary to maintain the eligibility of this state to receive surplus food commodities and to distribute federal food stamps or coupons, including agreements with banking corporations, counties and other agencies of this state, in carrying into effect the provisions of sections 205.960 to 205.966. Payment of the expenses of any program instituted under sections 205.960 to 205.966 shall be made pursuant to those sections only during the times when federal and state funds are provided and made available for such purposes.

205.961. FAMILY SUPPORT DIVISION TO REGULATE. — The **family support** division **[**of family services**]** shall make and promulgate necessary and reasonable rules and regulations for the administration of the programs established pursuant to section 205.960, and when required by federal law or regulation the **family support** division **[**of family services**]** shall be the certifying agency responsible for certifying individuals or households as eligible to receive surplus agricultural commodities or for the issuance of federal food stamps.

205.962. DIVISION TO CONTRACT WITH COUNTIES — COUNTIES NOT TO PARTICIPATE WITHOUT CONTRACT — EXPENSES OF PROGRAM, HOW PAID. — 1. The **family support** division **[**of family services**]** shall enter into a written agreement with the county commission or governing body of any county which desires to participate in a program for the distribution of

agricultural commodities within such county. Any agreement shall cover the responsibility of the parties thereto for the administration of the program and shall contain such terms and conditions as are required by regulations prescribed under federal laws governing distribution of such commodities as well as regulations of the **family support** division **[**of family services**]**. No county commission or governing body of a county shall participate in the administration of such program unless it has an agreement with the **family support** division **[**of family services**]** under this section. Expenses incurred in connection with a federally donated agricultural commodities food distribution program, including sums expended for the acquisition, warehousing, cold storage, safekeeping, maintenance of proper records and distribution of surplus agricultural commodities shall be paid by the county and **family support** division **[**of family services**]** in pursuance of the agreement entered into under this section or, in the absence of such agreement, by the **family support** division **[**of family services**]**. A county commission which has an agreement for distributing food commodities with the **family support** division **[**of family services**]** shall not be required to pay over fifteen percent of the total distribution costs in its county.

2. For the payment of expenses incurred in connection with the sale and distribution of federal food stamps in any county the **family support** division **[**of family services**]** may enter into agreements with banking corporations and with the county for the purpose of establishing and maintaining a food stamp distribution program in the county, and may accept moneys, services or quarters as a contribution toward the support and maintenance of such program. Any funds so received shall be payable to the director of revenue and deposited in the proper special account in the state treasury and become and be a part of the state funds appropriated for the use of the **family support** division **[**of family services**]**.

205.964. REIMBURSEMENT TO FEDERAL GOVERNMENT, HOW MADE. — Any loss for which this state or its agencies or counties may be liable to reimburse the federal government in accordance with federal laws, rules and regulations applicable to federal food stamp plans or federal surplus agricultural commodities distribution programs shall be paid from funds appropriated to the **family support** division **[**of family services**]** for the administration of these programs. Any loss in a county in which a program of surplus agricultural commodities distribution is in effect, and with respect to which loss is incurred, shall be paid by the county to the **family support** division **[**of family services**]** in the amount payable to the federal government under this section. The payment for any loss by the state or county shall not relieve any person of any civil or criminal liability to this state.

205.965. FEDERAL REGULATIONS TO BE FOLLOWED, INSPECTIONS, AUDITS — FOOD STAMP VENDORS TO BE APPROVED AND LICENSED, FEES — ACTIONS TO RESTRAIN VIOLATIONS, PROCEDURE — PENALTY — RULEMAKING PROCEDURE. — 1. Counties, state agencies, issuing agencies, retail food outlets, wholesale food concerns, banks and all persons who participate in or administer any part of the distribution program of surplus agricultural commodities or a food stamp plan shall comply with all state and federal laws, rules and regulations applicable to such program or plans and shall be subject to inspection and audit by the **family support** division **[**of family services**]** with respect to the operation of the program or plan.

2. To the extent authorized by federal law, all food stamp vendors shall be approved and licensed by the **family support** division **[**of family services**]**. The division may promulgate rules and regulations necessary to administer the provisions of this section. The division shall set the amount of the fees for licensing food stamp vendors at a level to produce revenue which shall not substantially exceed the cost and expense of administering the provisions of this section. An action may be brought by the department to temporarily or permanently enjoin or restrain any violation of this subsection or the regulations applicable thereto. Any action brought under the provisions of this subsection shall be heard by the court within no more than twenty days after

the action has been filed and service made upon the vendor. Any person who in any way conducts business as a food stamp vendor without approval and license by the **family support** division **[**of family services**]** shall be guilty of a class A misdemeanor. A second offense within five years after the first conviction shall be a class D felony.

3. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

207.010. DIVISIONS OF DEPARTMENT, AUTHORITY TO CARRY OUT DUTIES. — The **[**division of family services is**]** **children's division, family support division, MO HealthNet division, division of youth services, division of legal services, division of finance and administrative services, and the state technical support team are** an integral part of the department of social services and shall have and exercise all the powers and duties necessary to carry out fully and effectively the purposes assigned to **[**it**]** **them** by **the director of the department of social services and by** law and **the department of social services** shall be the state agency to:

(1) Administer state plans and laws involving aid to dependent children;

(2) Aid or relief in case of public calamity;

(3) Aid for direct relief;

(4) Child welfare services;

(5) Social services to families and adults;

(6) Pensions and services for the blind; and

(7) Any other duties relating to public assistance and social services which may be imposed upon the department of social services.

207.020. POWERS OF CHILDREN'S DIVISION. — 1. In addition to the powers, duties and functions vested in the **children's** division **[**of family services**]** by other provisions of this chapter or by other laws of this state, the division **[**of family services**]** shall have the power:

(1) To sue and be sued;

(2) To make contracts and carry out the duties imposed upon it by this or any other law;

(3) To administer, disburse, dispose of and account for funds, commodities, equipment, supplies or services, and any kind of property given, granted, loaned, advanced to or appropriated by the state of Missouri for any of the purposes herein;

(4) To administer oaths, issue subpoenas for witnesses, examine such witnesses under oath, and make and keep a record of same;

(5) To adopt, amend and repeal rules and regulations necessary or desirable to carry out the provisions of this chapter and which are not inconsistent with the constitution or laws of this state;

(6) To cooperate with the United States government in matters of mutual concern pertaining to any duties wherein the **children's** division **[**of family services**]** is acting as a state agency, including the adoption of such methods of administration as are found by the United States government to be necessary for the efficient operation of state plans hereunder;

(7) To make such reports in such form and containing such information as the United States government may, from time to time, require, and comply with such provisions as the United States government may, from time to time, find necessary to assure the correctness and verification of such reports;

(8) To establish, extend and strengthen child welfare services for the protection and care of homeless, dependent and neglected children and children in danger of becoming delinquent;

(9) To expend child welfare service funds for payment of part of the cost of district, county or other local child welfare services;

(10) To administer state child welfare activities and develop state services for the encouragement and assistance of adequate methods of community child welfare organizations;

(11) To appoint, when and if it may deem necessary, advisory committees to provide professional or technical consultation in respect to welfare problems and welfare administration. The members of such advisory committees shall receive no compensation for their services other than expenses actually incurred in the performance of their official duties. The number of members of each such advisory committee shall be determined by the **children's** division **[**of family services**]**, and such advisory committees shall consult with and advise the **children's** division **[**of family services**]** in respect to problems and policies incident to the administration of the particular function germane to the respective field of competence;

(12) To initiate or cooperate with other agencies in developing measures for the prevention of dependency and the rehabilitation of **[**needy persons**]** **children**;

(13) To collect statistics, make special fact-finding studies and publish reports in reference to **[**public welfare**]** **its duties**;

(14) To establish or cooperate in research or demonstration projects relative to the welfare program, such as those relating to the prevention and reduction of dependency and economic distress, or which will aid in effecting coordination of planning between private and public welfare agencies, or which will help improve the administration and effectiveness of programs carried on or assisted under the federal Social Security Act and the programs related thereto;

(15) To provide appropriate public welfare services to promote, safeguard and protect the social well-being and general welfare of children and to help maintain and strengthen family life, and to provide such public welfare services to aid **[**needy persons who can be so helped to become self-supporting or capable of self-care**]** **children and their families as may be authorized by law**;

(16) Upon request, to cooperate with the juvenile court and furnish social studies and reports to the court with respect to children as to whom adoption**, abuse,** or neglect petitions have been filed;

(17) To accept for social services and care, homeless, dependent or neglected children in all counties where legal custody is vested in the **children's** division **[**of family services**]** by the juvenile court where the juvenile court has acquired jurisdiction pursuant to subdivision (1) or (2) of subsection 1 of section 211.031; provided that prior to legal custody being vested in the **children's** division **[**of family services**]**, the **children's** division **[**of family services**]** shall conduct an evaluation of the child, examine the child and investigate all pertinent circumstances of his **or her** background for the purpose of determining appropriate services and a treatment plan for the child. This evaluation shall involve local division staff and consultation with the juvenile officer or **[**his**]** **such officer's** designee, appropriate state agencies, including but not limited to the department of mental health and the department of elementary and secondary education, or private practitioners who are knowledgeable of the child or programs or services appropriate to the needs of the child and shall be completed within thirty days. Temporary custody may be placed with the **children's** division **[**of family services**]** while the evaluation is being conducted. A report of such proceedings and findings shall be submitted in writing to the appropriate court:

(a) The **children's** division may, at any time, if it finds the child placed in its custody is in need of care or treatment other than that which it can provide, apply to the court which placed such child for an order relieving it of custody of such child. The court must make a determination within ten days and the court shall be vested with full power to make such disposition of the child as is authorized by law, including continued custody;

(b) However, no payments for care shall be made:

a. To facilities with which the **children's** division **[**of family services**]** has no contract to provide such care, or to facilities in the state of Missouri which are not licensed by the state of Missouri unless exempt from such licensure;

b. To any facility outside the state of Missouri unless the **children's** division **[**of family services**]** determines that there is no facility in the state of Missouri which can provide substantially equivalent care, except that this limitation shall not apply to any facility outside the state of Missouri if that facility is the closest available facility to the child's home or the

children's division **[**of family services**]** determines that such placement is in the child's best interest; nor

c. To any facility outside the state of Missouri which is not licensed or exempted from licensure by the state in which it is located, or which cannot document that it meets requirements which would be necessary for licensure in the state of Missouri. The term "care" shall include room, board, clothing, medical care, dental care, social services and incidentals;

(18) To accept gifts and grants of any property, real or personal, and to sell said property and expend such gifts or grants not inconsistent with the administration of this chapter and within the limitations imposed by the donor thereof;

(19) To make periodic surveys of cost-of-living factors in relation to the **[**needs of recipients of public assistance**]** **duties and responsibilities of the division**, and establish standards or budgetary guides for determining minimum costs of meeting such requirements, and amend such standards from time to time as circumstances may require.

2. All powers and duties of the **children's** division **[**of family services**]** shall, so far as applicable, apply to the administration of any other law or state law wherein duties are imposed upon the **children's** division **[**of family services**]** acting as a state agency.

207.022. POWERS OF FAMILY SUPPORT DIVISION. — 1. In addition to the powers, duties and functions vested in the family support division by other provisions of this chapter or by other laws of this state, the family support division shall have the power:

(1) To sue and be sued;

(2) To make contracts and carry out the duties imposed upon it by this or any other law;

(3) To administer, disburse, dispose of and account for funds, commodities, equipment, supplies or services, and any kind of property given, granted, loaned, advanced to or appropriated by the state of Missouri for any of the purposes herein;

(4) To administer oaths, issue subpoenas for witnesses, examine such witnesses under oath, and make and keep a record of same;

(5) To adopt, amend and repeal rules and regulations necessary or desirable to carry out the provisions of this chapter and which are not inconsistent with the constitution or laws of this state;

(6) To cooperate with the United States government in matters of mutual concern pertaining to any duties wherein the family support division is acting as a state agency, including the adoption of such methods of administration as are found by the United States government to be necessary for the efficient operation of state plans hereunder;

(7) To make such reports in such form and containing such information as the United States government may, from time to time, require, and comply with such provisions as the United States government may, from time to time, find necessary to assure the correctness and verification of such reports;

(8) To appoint, when and if it may deem necessary, advisory committees to provide professional or technical consultation in respect to welfare problems and welfare administration. The members of such advisory committees shall receive no compensation for their services other than expenses actually incurred in the performance of their official duties. The number of members of each such advisory committee shall be determined by the family support division and such advisory committees shall consult with and advise the family support division in respect to problems and policies incident to the administration of the particular function germane to the respective field of competence;

(9) To initiate or cooperate with other agencies in developing measures for the prevention of dependency and the rehabilitation of needy persons;

(10) To collect statistics, make special fact-finding studies and publish reports in reference to public welfare;

(11) To establish or cooperate in research or demonstration projects relative to the welfare program, such as those relating to the prevention and reduction of dependency and economic distress, or which will aid in effecting coordination of planning between private and public welfare agencies, or which will help improve the administration and effectiveness of programs carried on or assisted under the federal Social Security Act and the programs related thereto;

(12) To provide appropriate public welfare services to promote, safeguard and protect the social well-being and general welfare of children and to help maintain and strengthen family life, and to provide such public welfare services to aid needy persons who can be so helped to become self-supporting or capable of self-care;

(13) To accept gifts and grants of any property, real or personal, and to sell said property and expend such gifts or grants not inconsistent with the administration of this chapter and within the limitations imposed by the donor thereof;

(14) To make periodic surveys of cost-of-living factors in relation to the needs of recipients of public assistance, and establish standards or budgetary guides for determining minimum costs of meeting such requirements, and amend such standards from time to time as circumstances may require;

(15) To accept gifts and grants of any property, real or personal, and to sell said property and expend such gifts or grants not inconsistent with the administration of this chapter and within the limitations imposed by the donor thereof.

2. All powers and duties of the family support division shall, so far as applicable, apply to the administration of any other law or state law wherein duties are imposed upon the family support division acting as a state agency.

207.030. DIRECTOR OF DIVISIONS — OATH — BOND — REMOVAL FROM OFFICE. — The **[**chief administrative officer of the division of family services shall be a director of family services, who shall be a person**]** **directors of the family support division and children's division shall be persons** qualified by education and experience to supervise the work of **[**the division of family services**]** **such divisions** and shall be **[**a citizen and taxpayer**]** **citizens and taxpayers** of Missouri. Before entering upon his **or her** duties **[**the**]** **, each** director shall subscribe an oath or affirmation to support the Constitution of the United States and of the state of Missouri and to faithfully demean himself **or herself** in office. **[**He**]** **Each director** shall enter into good and sufficient bond, payable to the state of Missouri, conditioned upon the faithful discharge and performance of official duties, and upon accountability for all property and funds coming under **[**his**]** **such director's** administration and control, said bond to be approved by the attorney general as to form, and by the governor as to its sufficiency, the premium on said bond to be paid by the state. The governor may remove the director of the **children's** division **[**of family services**]** **and the director of the family support division** for incompetence, misconduct, or neglect of duty.

207.070. DEPARTMENT MAY ELECT TO BRING EMPLOYEES UNDER WORKERS' COMPENSATION — WHO DEEMED EMPLOYEE — RULES. — 1. The **[**division of family services in the**]** department of social services is hereby authorized to elect, under the provisions of section 287.030, to come under the provisions of chapter 287, governing workers' compensation, and such law is hereby extended to include all employees of the **[**division of family services**]** **department** under any contract of hire, express or implied, oral or written, or under any appointment or election. The state of Missouri shall be a self-insurer and assume all liability imposed by chapter 287, in respect to the **[**division of family services**]** **department** employees without insurance. The attorney general shall appear on behalf of and defend the state in all actions, when the state is a self-insurer, brought by employees of the **[**division of family services**]** **department** referred to herein under the provisions of the workers' compensation law.

2. Any persons assigned to perform work on welfare work projects initiated or sponsored by any state agency in carrying out a cooperative agreement with the United States government under the Federal Economic Opportunity Act of 1964, or any amendment thereto, shall be deemed to be employees of the **[**division of family**]** **department of social** services only for the purpose of affording such employees workers' compensation coverage under chapter 287. The workers' compensation coverage may be provided by the purchase of insurance or by the deposit in the commissioner of administration's office of a fund from which workers' compensation benefits to such employees shall be paid. Purchase of the insurance or the deposit of a fund shall be made only from funds granted by the federal government.

3. The **[**division of family**]** **department of social** services shall adopt rules classifying the employees mentioned herein who may be eligible for compensation under this section, and its classification shall be decisive as to whether or not an employee falls within the definition of an employee eligible for workers' compensation coverage under this section.

4. The director of the **[**division of family**]** **department of social** services is authorized to perform such duties as may be necessary to carry out effectively the purposes of this section.

207.080. LAW NOT TO CREATE LIABILITY OR OBLIGATION. — The extension of chapter 287 to include employees of the **[**division of family**]** **department of social** services shall not be construed as acknowledging or creating any liability in tort, or as incurring other obligations or duties except only the duty and obligation of complying with the provisions of chapter 287 so long as the **[**division of family services**]** **department** may elect to remain under the provisions of chapter 287.

208.015. PERSONS NOT ELIGIBLE FOR GENERAL RELIEF — EXCEPTION — SPECIFIED RELATIVE, DEFINED — UNEMPLOYABLE PERSONS — RELIEF LIMITATION. — 1. The **family support** division **[**of family services**]** shall grant general relief benefits to those persons determined to be eligible under this chapter and the applicable rules of the division. The director may adopt such additional requirements for eligibility for general relief, not inconsistent with this chapter, which **[**he**]** **the director** deems appropriate.

2. General relief shall not be granted to any person:

(1) Who has been approved for federal supplemental security income and was not on the general relief rolls in December, 1973; or

(2) Who is a recipient of:

(a) Aid to families with dependent children benefits;

(b) Aid to the blind benefits;

(c) Blind pension benefits; or

(d) Supplemental aid to the blind benefits.

3. A person shall not be considered unemployable, under this section, if unemployability is due to school attendance.

4. Persons receiving general relief in December, 1973, and who qualify for supplemental security income shall continue to receive a general relief grant if necessary to prevent a reduction in the total cash income received by such person in December, 1973, which general relief grant shall not exceed the amount of general relief provided by law.

5. In providing benefits to persons applying for or receiving general relief, benefits shall not be provided to any member of a household if the claimant is employable as defined by rule of the **family support** division **[**of family services**]**; or if certain specified relatives living in the household of the claimant are employed and have income sufficient to support themselves and their legal dependents and to meet the needs of the claimant as defined by rule of the division. "Specified relatives" shall be defined as the spouse, mother, father, sister, brother, son, daughter, and grandparents of the claimant, as well as the spouses of these relatives, if living in the home.

6. General relief paid to an unemployable person shall not exceed one hundred dollars a month.

208.030. SUPPLEMENTAL WELFARE ASSISTANCE, ELIGIBILITY FOR — AMOUNT, HOW DETERMINED — REDUCTION OF SUPPLEMENTAL PAYMENT PROHIBITED, WHEN. — 1. The **family support** division **[**of family services**]** shall make monthly payments to each person who was a recipient of old age assistance, aid to the permanently and totally disabled, and aid to the blind and who:

(1) Received such assistance payments from the state of Missouri for the month of December, 1973, to which they were legally entitled; and

(2) Is a resident of Missouri.

2. The amount of supplemental payment made to persons who meet the eligibility requirements for and receive federal supplemental security income payments shall be in an amount, as established by rule and regulation of the **family support** division **[**of family services**]**, sufficient to, when added to all other income, equal the amount of cash income received in December, 1973; except, in establishing the amount of the supplemental payments, there shall be disregarded cost-of-living increases provided for in Titles II and XVI of the federal Social Security Act and any benefits or income required to be disregarded by an act of Congress of the United States or any regulation duly promulgated thereunder. As long as the recipient continues to receive a supplemental security income payment, the supplemental payment shall not be reduced. The minimum supplemental payment for those persons who continue to meet the December, 1973, eligibility standards for aid to the blind shall be in an amount which, when added to the federal supplemental security income payment, equals the amount of the blind pension grant as provided for in chapter 209.

3. The amount of supplemental payment made to persons who do not meet the eligibility requirements for federal supplemental security income benefits, but who do meet the December, 1973, eligibility standards for old age assistance, permanent and total disability and aid to the blind or less restrictive requirements as established by rule or regulation of the **family support** division **[**of family services**]**, shall be in an amount established by rule and regulation of the **family support** division **[**of family services**]** sufficient to, when added to all other income, equal the amount of cash income received in December, 1973; except, in establishing the amount of the supplemental payment, there shall be disregarded cost-of-living increases provided for in Titles II and XVI of the federal Social Security Act and any other benefits or income required to be disregarded by an act of Congress of the United States or any regulation duly promulgated thereunder. The minimum supplemental payments for those persons who continue to meet the December, 1973, eligibility standards for aid to the blind shall be a blind pension payment as prescribed in chapter 209.

4. The **family support** division **[**of family services**]** shall make monthly payments to persons meeting the eligibility standards for the aid to the blind program in effect December 31, 1973, who are bona fide residents of the state of Missouri. The payment shall be in the amount prescribed in subsection 1 of section 209.040, less any federal supplemental security income payment.

5. The **family support** division **[**of family services**]** shall make monthly payments to persons age twenty-one or over who meet the eligibility requirements in effect on December 31, 1973, or less restrictive requirements as established by rule or regulation of the **family support** division **[**of family services**]**, who were receiving old age assistance, permanent and total disability assistance, general relief assistance, or aid to the blind assistance lawfully, who are not eligible for nursing home care under the Title XIX program, and who reside in a licensed residential care facility, a licensed assisted living facility, a licensed intermediate care facility or a licensed skilled nursing facility in Missouri and whose total cash income is not sufficient to pay the amount charged by the facility; and to all applicants age twenty-one or over who are not eligible for nursing home care under the Title XIX program who are residing in a licensed residential care facility, a licensed assisted living facility, a licensed intermediate care facility or a licensed skilled nursing facility in Missouri, who make application after December 31, 1973, provided they meet the eligibility standards for old age assistance, permanent and total disability

assistance, general relief assistance, or aid to the blind assistance in effect on December 31, 1973, or less restrictive requirements as established by rule or regulation of the **family support** division **[**of family services**]**, who are bona fide residents of the state of Missouri, and whose total cash income is not sufficient to pay the amount charged by the facility. Until July 1, 1983, the amount of the total state payment for home care in licensed residential care facilities shall not exceed one hundred twenty dollars monthly, for care in licensed intermediate care facilities or licensed skilled nursing facilities shall not exceed three hundred dollars monthly, and for care in licensed assisted living facilities shall not exceed two hundred twenty-five dollars monthly. Beginning July 1, 1983, for fiscal year 1983-1984 and each year thereafter, the amount of the total state payment for home care in licensed residential care facilities shall not exceed one hundred fifty-six dollars monthly, for care in licensed intermediate care facilities or licensed skilled nursing facilities shall not exceed three hundred ninety dollars monthly, and for care in licensed assisted living facilities shall not exceed two hundred ninety-two dollars and fifty cents monthly. No intermediate care or skilled nursing payment shall be made to a person residing in a licensed intermediate care facility or in a licensed skilled nursing facility unless such person has been determined, by his **or her** own physician or doctor, to medically need such services subject to review and approval by the department. Residential care payments may be made to persons residing in licensed intermediate care facilities or licensed skilled nursing facilities. Any person eligible to receive a monthly payment pursuant to this subsection shall receive an additional monthly payment equal to the Medicaid vendor nursing facility personal needs allowance. The exact amount of the additional payment shall be determined by rule of the department. This additional payment shall not be used to pay for any supplies or services, or for any other items that would have been paid for by the **family support** division **[**of family services**]** if that person would have been receiving medical assistance benefits under Title XIX of the federal Social Security Act for nursing home services pursuant to the provisions of section 208.159. Notwithstanding the previous part of this subsection, the person eligible shall not receive this additional payment if such eligible person is receiving funds for personal expenses from some other state or federal program.

208.041. CHILDREN OF UNEMPLOYED PARENT ELIGIBLE FOR AID TO DEPENDENT CHILDREN — UNEMPLOYMENT BENEFITS CONSIDERED UNEARNED INCOME. — 1. Notwithstanding the provisions of subdivision (2) of section 208.050, the provisions of section 208.040 shall also apply to a needy child who has been deprived of parental support or care by reason of the unemployment of a parent as such term "unemployment" is defined and determined by the **family support** division **[**of family services pursuant to**] under** applicable federal law and regulations. The unemployed parent, for whose child or children benefits may be received, is eligible for payments and under this section must:

(1) Be physically present in Missouri, living in the home with the child or children, actively seeking employment, and complying with requirements made by the **family support** division **[**of family services pursuant to**] under** applicable state and federal requirements for registration with the United States Secretary of Labor or his **or her** representative regarding employment, training, work incentive and special work projects;

(2) Have been unemployed for at least thirty days prior to receiving benefits under this section and must apply for and receive any unemployment benefits to which he or she is entitled, such benefits to be considered as unearned income in determining eligibility for aid to families with dependent children;

(3) Not have refused without good cause, within such thirty-day period prior to the receipt of such aid, any bona fide offer of employment which he or she is physically able to perform and otherwise qualified to engage in;

(4) Not have refused, without good cause, vocational rehabilitation, education, training, work incentive or special work projects offered;

(5) (a) Have six or more quarters of work within any thirteen-calendar-quarter period ending within one year prior to the application for such aid or have received or have been qualified to receive unemployment compensation within such one-year period;

(b) A "quarter of work" with respect to any individual shall mean a period of three consecutive calendar months ending on March thirty-first, June thirtieth, September thirtieth, or December thirty-first in which he or she received earned income of not less than fifty dollars or in which he or she participated in a community work and training program or the work incentive program;

(c) An individual shall be deemed "qualified" for unemployment compensation under the state's unemployment compensation law if he or she would have been eligible to receive such benefits upon filing application, or he or she performed work not covered by such law which, if it has been covered, would, together with any covered work he or she performed, have made him or her eligible to receive such benefits upon filing application; and

(6) Be the natural or adoptive parent of the child or children or legally responsible for the support of the child or children.

2. The **family support** division **[**of family services**]** shall enter into a cooperative agreement with the state department of elementary and secondary education and the coordinating board for higher education for use of public vocational rehabilitation and education services and facilities in respect to the unemployed parent to the end that those capable of assimilating and utilizing the same may be trained or retrained.

3. The **family support** division **[**of family services**]** shall enter into an agreement with the division of employment security for registration and reregistration of unemployed parents, and shall refer them to the United States Secretary of Labor or his **or her** representative, within thirty days of receiving assistance, for the purpose of providing employment, training, work incentive and special work projects for all eligible unemployed parents as provided in section 208.042.

4. Payments shall be prorated within the limits of the appropriations, and shall not exceed the amount of the appropriations made therefor.

5. This section shall not become effective until June 16, 1983.

208.042. RECIPIENTS OF AID TO DEPENDENT CHILDREN TO PARTICIPATE IN TRAINING OR WORK PROJECTS — EXCEPTIONS — REFUSAL TO PARTICIPATE, EFFECT OF — STANDARDS — CHILD DAY CARE SERVICES AUTHORIZED. — 1. In households containing recipients of aid to families with dependent children benefits, each appropriate child, relative or other eligible individual sixteen years of age or over shall be referred by the **family support** division **[**of family services**]** to the United States Secretary of Labor or his **or her** representative for participation in employment, training, work incentive or special work projects when established and operated by the secretary, to afford such individuals opportunities to work in the regular economy and to attain independence through gainful employment.

2. The **family support** division **[**of family services**]**, pursuant to applicable federal law and regulations, shall determine the standards and procedures for the referral of individuals for employment, training, work incentive and special work projects, which shall not be refused by such individuals without good cause; but no recipient or other eligible individual in the household shall be required to participate in such work programs if the person is

(1) Ill, incapacitated, or of advanced age;

(2) So remote from the location of any work or training project or program that he **or she** cannot effectively participate;

(3) A child attending school full time;

(4) A person whose presence in the household on a substantially continuous basis is required because of illness or incapacity of another member of the household.

3. The **family support** division **[**of family services**]** shall pay to the United States Secretary of Labor or his **or her** representative up to twenty percent of the total cost, in cash or in kind, of the work incentive programs operated for the benefit of the eligible persons referred by the

family support division **[**of family services**]**; and the **family support** division **[**of family services**]** shall pay an amount to the secretary for eligible persons referred to and participating in special work projects not to exceed the maximum monthly payments authorized under sections 208.041 and 208.150 for recipients of public assistance benefits. An allowance in addition to the maximum fixed by section 208.150 may also be made by the **family support** division **[**of family services**]** for the reasonable expenses of any needy child or needy eligible relative which are attributable to his **or her** participating in a work training or work incentive program.

4. If an eligible child or relative refuses without good cause to participate in any work training or work incentive program to which he **or she** has been referred, payment to or on behalf of the child or relative may be continued for not more than sixty days thereafter, but in such cases payments shall be made pursuant to subsection 2 of section 208.180. If a relative has refused to so participate, payments on behalf of the eligible children cared for by the relative shall be made pursuant to subsection 2 of section 208.180.

5. The **family support** division **[**of family services**]** is authorized to expend funds to provide child day care services, when appropriate, for the care of children required by the absence of adult persons from the household due to referral and participation in employment, training, work incentive programs or special work projects.

208.047. AID TO DEPENDENT CHILDREN IN FOSTER HOMES OR CHILD-CARE INSTITUTIONS, GRANTED, WHEN — MAXIMUM BENEFITS. — 1. Notwithstanding the provisions of section 208.040, aid to dependent children benefits may be granted to a dependent child:

(1) Who would meet the requirements of section 208.040, except for his **or her** removal from the home of a relative as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child;

(2) For whose placement and care the **children's** division **[**of family services**]** is responsible;

(3) Who has been placed in a foster family home or nonprofit private child-care institution as a result of such determination; and

(4) Who (a) received aid to dependent children benefits in and for the month in which court proceedings leading to such determination were initiated; or (b) would have received aid in or for that month if application had been made therefor; or (c) in the case of a child who had been living with a relative specified in section 208.040 within six months prior to the month in which such proceedings were initiated, would have received aid in and for such month, if in such month he **or she** had been living with, and removed from the home of, such a relative and application had been made therefor.

2. Monthly aid to dependent children benefits on behalf of a child placed in a foster family home or nonprofit private child-care institution shall not exceed one hundred dollars for each child and in the event that federal aid to states for dependent children placed in a nonprofit private child-care institution is withdrawn, benefit payments under this section shall be terminated on behalf of a dependent child in a nonprofit private child-care institution.

208.050. AID TO DEPENDENT CHILDREN DENIED, WHEN. — Aid to families with dependent children benefits shall not be granted or continued:

(1) Unless the benefits granted are used to meet the needs of the child and the needy eligible relative caring for a dependent child;

(2) To any person when benefits are claimed by reason of his **or her** physical or mental incapacity, and such person refuses to accept vocational rehabilitation services or training or medical or other legal healing treatment necessary to improve or restore his **or her** capacity to support himself **or herself** and his **or her** dependents, and it is certified by competent medical authority designated by the **family support** division **[**of family services**]** that such physical or mental incapacity can be removed, corrected or substantially improved; provided, however, the

family support division **[**of family services**]** may in its discretion waive this requirement, taking into consideration the age of the individual, nature and extent of training and treatment, or whether he **or she** endangers the health of others in his **or her** refusal, whether the training or treatment is such that a reasonably prudent person would accept it, and all other facts and circumstances in the individual case;

(3) To a household that receives in any month an amount of income which together with all other income for that month, not excluded or disregarded by the division, exceeds the standard of need applicable to the family:

(a) Such amount of income shall be considered income to the individual in the month received, and the household of which such person is a member shall be ineligible for the whole number of months that equals the sum of such amount and all other income received in such month, not excluded or disregarded by the division, divided by the standard of need applicable to the family;

(b) Any income remaining shall be treated as income received in the first month following the period of ineligibility specified in paragraph (a);

(c) For the purposes of this subdivision, where consistent with federal law or regulation, "income" shall not include the proceeds of any life insurance policy, or prearranged funeral or burial contract, provided that such proceeds are actually used to pay for the funeral or burial expenses of the deceased family member.

208.060. APPLICATIONS FOR BENEFITS, HOW AND WHERE FILED. — Application for any benefits under any law of this state administered by the **family support** division **[**of family services**]** acting as a state agency shall be filed in the county office. Application for aid to dependent children shall be made by the person with whom the child will live while receiving aid. All applications shall be in writing, or reduced to writing, upon blank forms furnished by the **family support** division **[**of family services**]**, and shall contain such information as may be required by the **family support** division **[**of family services**]** or by any federal authority under the Social Security law and amendments thereto. The term "benefits" as used herein or in this law shall be construed to mean:

(1) Aid to dependent children;

(2) Aid or public relief to individuals in cases of public calamity;

(3) Money or services available for child welfare services;

(4) Any other grant, aid, pension or assistance administered by the **family support** division **[**of family services**]**.

208.070. APPLICATIONS MAY BE MADE AT COUNTY OFFICE AND SHALL BE INVESTIGATED — DECISION — NOTICE TO APPLICANT. — 1. The department shall permit any individual who wants to apply for assistance pursuant to the temporary assistance or any other public assistance program administered or supervised by the department to so apply. Such public assistance shall be furnished with reasonable promptness in accordance with statute and rules of the department.

2. A request for assistance may be made at a county office of the **family support** division **[**of family services**]** in person, by telephone or by mail.

3. Whenever the division receives a request for assistance an investigation and record shall be promptly made of the circumstances of the applicant by the division in order to ascertain the facts supporting the application. Upon the completion of such investigation the director of the **family support** division **[**of family services**]**, or someone designated by the director, shall decide whether the applicant is eligible for benefits and if entitled to benefits determine the amount thereof and the date on which such benefits shall begin. The division shall notify the applicant of the decision.

4. During the investigation of any application or recertification of assistance, the division shall:

(1) At the time of each application, provide each applicant household with a clear written statement explaining what acts the member of the household shall perform to cooperate in verifying and otherwise completing the application process;

(2) Assist each applicant household in obtaining appropriate verification and completing the application process;

(3) Not require any household to submit additional proof of a matter on which the division already has current verification, unless the division has reason to believe that such information is inaccurate, incomplete or insufficient; and

(4) Not deny any application for assistance solely because of the failure of a person outside the household to cooperate in providing information.

5. The division shall complete the investigation within the time allowed by federal law or state statute. If no time limit is otherwise specified by federal law or state statute, benefits shall be provided not later than forty-five days following the filing of an application.

6. The division shall explain to the applicant the nature of all categories of public assistance, benefits and services for which the applicant household may be eligible and may be given, and the consequences of accepting temporary assistance benefits, including, but not limited to, lifetime limits and work requirements. If the applicant chooses not to receive temporary assistance benefits, the division shall evaluate the applicant's eligibility for medical assistance, food stamps and any other public assistance benefits which the applicant or the applicant's dependents may be eligible.

208.072. APPLICATION FOR MEDICAL ASSISTANCE, APPROVAL OR DENIAL, WHEN — MEDICAID PAYMENTS TO LONG-TERM CARE FACILITIES, WHEN. — 1. A completed application for medical assistance for services described in section 208.152 shall be approved or denied within thirty days from submission to the **family support** division **[**of family services**]** or its successor.

2. The **MO HealthNet** division **[**of medical services**]** shall remit to a licensed nursing home operator the Medicaid payment for a newly admitted Medicaid resident in a licensed long-term care facility within forty-five days of the resident's date of admission.

208.075. MENTAL OR PHYSICAL EXAMINATION MAY BE REQUIRED — EVIDENCE ADMISSIBLE AT APPEAL HEARING. — 1. When an application is made for aid to dependent children or aid to the permanently and totally disabled benefits because of the physical or mental condition of a person the **family support** division **[**of family services**]** shall require the person to be examined by competent medical or other appropriate authority designated by the **family support** division **[**of family services**]**. If benefits are paid because of the physical or mental condition of a person the **family support** division **[**of family services**]** may, as often as it deems necessary, require such person to be reexamined by competent medical or other appropriate authority designated by the **family support** division **[**of family services**]**. Written reports of examinations and reexaminations shall be required and evaluated by the **family support** division **[**of family services**]** in determining eligibility to receive benefits or to continue to receive benefits.

2. In any appeal hearing as provided for by section 208.080 and the question at issue involves the physical or mental incapacity of a person, regardless of whether assistance has been denied or a recipient has been removed from the assistance rolls, the written reports of the examination or reexamination made by competent medical or other appropriate authority designated by the **family support** division **[**of family services**]**, and any written medical reports by other physicians or clinics submitted by claimant, are hereby declared to be competent evidence and admissible as such at the appeal hearing to be considered by the director with any other evidence submitted. Any written medical report purporting to be executed and signed by the medical or other appropriate authority, its agents, or employees shall be prima facie evidence of it being properly executed and signed without further proof of identification.

208.080. APPEAL TO DIRECTOR OF THE RESPECTIVE DIVISION, WHEN — PROCEDURE. — 1. Any applicant for or recipient of benefits or services provided by law by the **[**division of family services**]** **family support division, children's division, or MO HealthNet division** may appeal to the director of the **respective** division **[**of family services**]** from a decision **[**of a county office of the division of family services**]** in any of the following cases:

(1) If his **or her** right to make application for any such benefits or services is denied; or

(2) If his **or her** application is disallowed in whole or in part, or is not acted upon within a reasonable time after it is filed; or

(3) If it is proposed to cancel or modify benefits or services; or

(4) If he **or she** is adversely affected by any determination of **[**a county office of the division of family services**]** **the family support division, children's division, or MO HealthNet division** in **[**its**]** **the** administration of the programs administered by **[**it**]** **such divisions**; or

(5) If a determination is made pursuant to subsection 2 of section 208.180 that payment of benefits on behalf of a dependent child shall not be made to the relative with whom he **or she** lives.

2. If **[**the**]** **a** division proposes to terminate or modify the payment of benefits or the providing of services to the recipient or **[**the**]** **a** division has terminated or modified the payment of benefits or providing of services to the recipient and the recipient appeals, the decision of the director as to the eligibility of the recipient at the time such action was proposed or taken shall be based on the facts shown by the evidence presented at the hearing of the appeal to have existed at the time such action to terminate or modify was proposed or was taken.

3. In the case of a proposed action by the **[**county office of the division of family services**]** **family support division, children's division, or MO HealthNet division** to reduce, modify, or discontinue benefits or services to a recipient, the recipient of such benefits or services shall have ten days from the date of the mailing of notice of the proposed action to reduce, modify, or discontinue benefits or services within which to request an appeal to the director of the division **[**of family services**]**. In the notice to the recipient of such proposed action, the **[**county office of the division of family services**]** **appropriate division** shall notify the recipient of all his **or her** rights of appeal under this section. Proper blank forms for appeal to the director of the division **[**of family services**]** shall be furnished by the **[**county office**]** **the appropriate division** to any aggrieved recipient. Every such appeal to the director of the division **[**of family services**]** shall be transmitted by the **[**county office to the director of the division of family services**]** **appropriate division** immediately upon the same being filed with the **[**county office**]** **appropriate division**. If an appeal is requested, benefits or services shall continue undiminished or unchanged until such appeal is heard and a decision has been rendered thereon, except that in an aid to families with dependent children case the recipient may request that benefits or services not be continued undiminished or unchanged during the appeal.

4. When a case has been closed or modified and no appeal was requested prior to closing or modification, the recipient shall have ninety days from the date of closing or modification to request an appeal to the director of the division **[**of family services**]**. Each recipient who has not requested an appeal prior to the closing or modification of his **or her** case shall be notified at the time of such closing or modification of his **or her** right to request an appeal during this ninety-day period. Proper blank forms for requesting an appeal to the director of the division **[**of family services**]** shall be furnished by the **[**county office**]** **appropriate division** to any aggrieved applicant. Every such request made in any manner for an appeal to the director of the division **[**of family services**]** shall be transmitted by the **[**county office**]** **appropriate division** to the director of the division **[**of family services**]** immediately upon the same being filed with the **[**county office**]** **appropriate division**. If an appeal is requested in the ninety-day period subsequent to the closing or modification, benefits or services shall not be continued at their prior level during the pendency of the appeal.

5. In the case of a rejection of an application for benefits or services, the aggrieved applicant shall have ninety days from the date of the notice of the action in which to request an appeal to the director of the division **[**of family services**]**. In the rejection notice the applicant for benefits or services shall be notified of all of his **or her** rights of appeal under this section. Proper blank forms for requesting an appeal to the director of the division **[**of family services**]** shall be furnished by the **[**county office**] appropriate division** to any aggrieved applicant. Any such request made in any manner for an appeal shall be transmitted by the **[**county office**] appropriate division** to the director of the division **[**of family services**]**, immediately upon the same being filed with the **[**county office**] appropriate division**.

6. If the division has rejected an application for benefits or services and the applicant appeals, the decision of the director as to the eligibility of the applicant at the time such rejection was made shall be based upon the facts shown by the evidence presented at the hearing of the appeal to have existed at the time the rejection was made.

7. The director of the division **[**of family services**]** shall give the applicant for benefits or services or the recipient of benefits or services reasonable notice of, and an opportunity for, a fair hearing in the county of his **or her** residence at the time the adverse action was taken. The hearing shall be conducted by the director of the division **[**of family services or his**] or such director's** designee. Every applicant or recipient, on appeal to the director of the division **[**of family services**]**, shall be entitled to be present at the hearing, in person and by attorney or representative, and shall be entitled to introduce into the record of such hearing any and all evidence, by witnesses or otherwise, pertinent to such applicant's or recipient's eligibility between the time he **or she** applied for benefits or services and the time the application was denied or the benefits or services were terminated or modified, and all such evidence shall be taken down, preserved, and shall become a part of the applicant's or recipient's appeal record. Upon the record so made, the director of the division **[**of family services**]** shall determine all questions presented by the appeal, and shall make such decision as to the granting of benefits or services as in his **or her** opinion is justified and is in conformity with the provisions of the law. The director shall clearly state the reasons for his **or her** decision and shall include a statement of findings of fact and conclusions of law pertinent to the questions in issue.

8. All appeal requests may initially be made orally or in any written form, but all such requests shall be transcribed on forms furnished by the division **[**of family services**]** and signed by the aggrieved applicant or recipient or his **or her** representative prior to the commencement of the hearing.

208.100. APPEAL TO CIRCUIT COURT — PROCEDURE. — 1. Any claimant aggrieved by the decision of the director of the **[**division of family services**] family support division, children's division, or MO HealthNet division** made under section 208.080 may appeal to the circuit court of the county in which such claimant resides within ninety days from the date of the action and decision appealed from.

2. The **appropriate** division shall furnish the claimant, upon request, with proper form of affidavit for appeal from the director of the **appropriate** division **[**of family services**]** to the circuit court.

3. Upon the affidavit for appeal, duly executed by the claimant before an officer authorized to administer oaths, being filed with the **appropriate** division within ninety days from the date of the decision of the director of the **appropriate** division **[**of family services**]** the entire record preserved in the case at the time of the claimant's hearing, together with the hearing decision and the affidavit for appeal, shall be certified by the director of the **appropriate** division **[**of family services**]** to the circuit court and the case shall be docketed as other civil cases except that neither party shall be required to give bond or deposit any money for docket fee on appeal to the circuit court.

4. Such appeal shall be tried in the circuit court upon the record of the proceedings had before and certified by the director of the **appropriate** division **[**of family services**]**, which shall in such case be certified and included in the return of said director to the court.

5. Upon the record so certified by the director of the **appropriate** division **[**of family services**]**, the circuit court shall review the action and decision of the director in accordance with the provisions of section 536.140; and the court shall render judgment affirming, reversing, or modifying the director's decision, and may order the reconsideration of the case in the light of the court's opinion and judgment, and may order the director to take such further action as it may be proper to require.

208.120. RECORDS, WHEN EVIDENCE, RESTRICTIONS ON DISCLOSURE — PENALTY. — 1. For the protection of applicants and recipients, all officers and employees of the state of Missouri are prohibited, except as hereinafter provided, from disclosing any information obtained by them in the discharge of their official duties relative to the identity of applicants for or recipients of benefits or the contents of any records, files, papers, and communications, except in proceedings or investigations where the eligibility of an applicant to receive benefits, or the amount received or to be received by any recipient, is called into question, or for the purposes directly connected with the administration of public assistance. In any judicial proceedings, except such proceedings as are directly concerned with the administration of these programs, such information obtained in the discharge of official duties relative to the identity of applicants for or recipients of benefits, and records, files, papers, communications and their contents shall be confidential and not admissible in evidence.

2. The **family support** division **[**of family services**]** shall in each county welfare office maintain monthly a report showing the name and address of all recipients certified by such county welfare office to receive public assistance benefits, together with the amount paid to each recipient during the preceding month, and each such report and information contained therein shall be open to public inspection at all times during the regular office hours of the county welfare office; provided, however, that all information regarding applicants or recipients other than names, addresses and amounts of grants shall be considered as confidential.

3. It shall be unlawful for any person, association, firm, corporation or other agency to solicit, disclose, receive, make use of or authorize, knowingly permit, participate in or acquiesce in the use of any name or lists of names for commercial or political purposes of any nature; or for any name or list of names of recipients secured from such report in the county welfare office to be published in any manner. Anyone willfully or knowingly violating any provisions of this section shall be guilty of a misdemeanor. If the violation is by other than an individual, the penalty may be adjudged against any officer, agent, employee, servant or other person of the association, firm, corporation or other agency who committed or participated in such violation and is found guilty thereof.

208.125. RECORDS MAY BE DESTROYED, WHEN. — The director of the **family support** division **[**of family services**]** is authorized to destroy all applications and records compiled by the **family support** division **[**of family services**]** in connection with the investigation and payment of public assistance or blind pensions after five years have elapsed since the closing of a case or the rejection of an application.

208.130. BENEFITS GRANTED MAY BE RECONSIDERED. — All benefits granted may be reconsidered by the director of **[**family services**] the department of social services or the appropriate division** as frequently as he **or she** may deem necessary. After such further investigation the amount of a benefit may be changed or entirely withdrawn.

208.145. MEDICAL ASSISTANCE BENEFITS, ELIGIBILITY BASED ON RECEIPT OF AFDC BENEFITS, WHEN. — For the purposes of the application of section 208.151, individuals shall be

deemed to be recipients of aid to families with dependent children and individuals shall be deemed eligible for such assistance if:

(1) The individual meets eligibility requirements which are no more restrictive than the July 16, 1996, eligibility requirements for aid to families with dependent children, as established by the **family support** division **[**of family services**]**; or

(2) Each dependent child, and each relative with whom such a child is living including the spouse of such relative as described in 42 U.S.C. 606(b), as in effect on July 16, 1996, who ceases to meet the eligibility criteria set forth in subdivision (1) of this section as a result of the collection or increased collection of child or spousal support under part IV-D of the Social Security Act, 42 U.S.C. 651 et seq., and who has received such aid in at least three of the six months immediately preceding the month in which ineligibility begins, shall be deemed eligible for an additional four calendar months beginning with the month in which such ineligibility begins.

208.150. MONTHLY BENEFITS, HOW DETERMINED. — The maximum amount of monthly public assistance money payment benefits payable to or on behalf of a needy person shall not exceed the following:

(1) Aid to families with a dependent child, or children, and needy eligible relatives caring for a dependent child, or children, in an amount to be computed as follows:

(a) Beginning July 1, 1993, and at least every three years thereafter, the **family support** division **[**of family services**]** shall determine by regulation the average need for each such eligible person, which shall include the cost of basic needs required to maintain a child or children in the home at a reasonable and decent low-income standard of living, and shall pay, on a uniform basis, the highest percent of such need as shall be possible within the limits of funds appropriated for that purpose, less available income;

(b) "Available income" means the total income, before taxes or other deductions, of each person residing within the same household, except, to the extent allowed by federal law, the earnings of a student under nineteen years of age enrolled in a secondary school or at the equivalent level of vocational or technical training, plus or minus such credits or deductions as may be prescribed by the **family support** division **[**of family services**]** by regulations for the sole purpose of complying with federal laws or regulations relating to this state's eligibility to receive federal funds for aid to families with dependent children payments, and such credits or deductions as may otherwise be prescribed by law;

(c) The available income shall be subtracted from the total amount which otherwise would be paid;

(d) If the determined need under this subdivision is of an amount less than ten dollars, no cash payment will be made;

(2) Aid or public relief to an unemployable person not to exceed one hundred dollars.

208.152. MEDICAL SERVICES FOR WHICH PAYMENT WILL BE MADE — CO-PAYMENTS MAY BE REQUIRED — REIMBURSEMENT FOR SERVICES. — 1. MO HealthNet payments shall be made on behalf of those eligible needy persons as defined in section 208.151 who are unable to provide for it in whole or in part, with any payments to be made on the basis of the reasonable cost of the care or reasonable charge for the services as defined and determined by the MO HealthNet division, unless otherwise hereinafter provided, for the following:

(1) Inpatient hospital services, except to persons in an institution for mental diseases who are under the age of sixty-five years and over the age of twenty-one years; provided that the MO HealthNet division shall provide through rule and regulation an exception process for coverage of inpatient costs in those cases requiring treatment beyond the seventy-fifth percentile professional activities study (PAS) or the MO HealthNet children's diagnosis length-of-stay schedule; and provided further that the MO HealthNet division shall take into account through

its payment system for hospital services the situation of hospitals which serve a disproportionate number of low-income patients;

(2) All outpatient hospital services, payments therefor to be in amounts which represent no more than eighty percent of the lesser of reasonable costs or customary charges for such services, determined in accordance with the principles set forth in Title XVIII A and B, Public Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. 301, et seq.), but the MO HealthNet division may evaluate outpatient hospital services rendered under this section and deny payment for services which are determined by the MO HealthNet division not to be medically necessary, in accordance with federal law and regulations;

(3) Laboratory and X-ray services;

(4) Nursing home services for participants, except to persons with more than five hundred thousand dollars equity in their home or except for persons in an institution for mental diseases who are under the age of sixty-five years, when residing in a hospital licensed by the department of health and senior services or a nursing home licensed by the department of health and senior services or appropriate licensing authority of other states or government-owned and -operated institutions which are determined to conform to standards equivalent to licensing requirements in Title XIX of the federal Social Security Act (42 U.S.C. 301, et seq.), as amended, for nursing facilities. The MO HealthNet division may recognize through its payment methodology for nursing facilities those nursing facilities which serve a high volume of MO HealthNet patients. The MO HealthNet division when determining the amount of the benefit payments to be made on behalf of persons under the age of twenty-one in a nursing facility may consider nursing facilities furnishing care to persons under the age of twenty-one as a classification separate from other nursing facilities;

(5) Nursing home costs for participants receiving benefit payments under subdivision (4) of this subsection for those days, which shall not exceed twelve per any period of six consecutive months, during which the participant is on a temporary leave of absence from the hospital or nursing home, provided that no such participant shall be allowed a temporary leave of absence unless it is specifically provided for in his plan of care. As used in this subdivision, the term "temporary leave of absence" shall include all periods of time during which a participant is away from the hospital or nursing home overnight because he is visiting a friend or relative;

(6) Physicians' services, whether furnished in the office, home, hospital, nursing home, or elsewhere;

(7) Drugs and medicines when prescribed by a licensed physician, dentist, podiatrist, or an advanced practice registered nurse; except that no payment for drugs and medicines prescribed on and after January 1, 2006, by a licensed physician, dentist, podiatrist, or an advanced practice registered nurse may be made on behalf of any person who qualifies for prescription drug coverage under the provisions of P.L. 108-173;

(8) Emergency ambulance services and, effective January 1, 1990, medically necessary transportation to scheduled, physician-prescribed nonelective treatments;

(9) Early and periodic screening and diagnosis of individuals who are under the age of twenty-one to ascertain their physical or mental defects, and health care, treatment, and other measures to correct or ameliorate defects and chronic conditions discovered thereby. Such services shall be provided in accordance with the provisions of Section 6403 of P.L. 101-239 and federal regulations promulgated thereunder;

(10) Home health care services;

(11) Family planning as defined by federal rules and regulations; provided, however, that such family planning services shall not include abortions unless such abortions are certified in writing by a physician to the MO HealthNet agency that, in **[**his**]** **the physician's** professional judgment, the life of the mother would be endangered if the fetus were carried to term;

(12) Inpatient psychiatric hospital services for individuals under age twenty-one as defined in Title XIX of the federal Social Security Act (42 U.S.C. 1396d, et seq.);

(13) Outpatient surgical procedures, including presurgical diagnostic services performed in ambulatory surgical facilities which are licensed by the department of health and senior services of the state of Missouri; except, that such outpatient surgical services shall not include persons who are eligible for coverage under Part B of Title XVIII, Public Law 89-97, 1965 amendments to the federal Social Security Act, as amended, if exclusion of such persons is permitted under Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security Act, as amended;

(14) Personal care services which are medically oriented tasks having to do with a person's physical requirements, as opposed to housekeeping requirements, which enable a person to be treated by his **or her** physician on an outpatient rather than on an inpatient or residential basis in a hospital, intermediate care facility, or skilled nursing facility. Personal care services shall be rendered by an individual not a member of the participant's family who is qualified to provide such services where the services are prescribed by a physician in accordance with a plan of treatment and are supervised by a licensed nurse. Persons eligible to receive personal care services shall be those persons who would otherwise require placement in a hospital, intermediate care facility, or skilled nursing facility. Benefits payable for personal care services shall not exceed for any one participant one hundred percent of the average statewide charge for care and treatment in an intermediate care facility for a comparable period of time. Such services, when delivered in a residential care facility or assisted living facility licensed under chapter 198 shall be authorized on a tier level based on the services the resident requires and the frequency of the services. A resident of such facility who qualifies for assistance under section 208.030 shall, at a minimum, if prescribed by a physician, qualify for the tier level with the fewest services. The rate paid to providers for each tier of service shall be set subject to appropriations. Subject to appropriations, each resident of such facility who qualifies for assistance under section 208.030 and meets the level of care required in this section shall, at a minimum, if prescribed by a physician, be authorized up to one hour of personal care services per day. Authorized units of personal care services shall not be reduced or tier level lowered unless an order approving such reduction or lowering is obtained from the resident's personal physician. Such authorized units of personal care services or tier level shall be transferred with such resident if **[**her**]** **he** or she transfers to another such facility. Such provision shall terminate upon receipt of relevant waivers from the federal Department of Health and Human Services. If the Centers for Medicare and Medicaid Services determines that such provision does not comply with the state plan, this provision shall be null and void. The MO HealthNet division shall notify the revisor of statutes as to whether the relevant waivers are approved or a determination of noncompliance is made;

(15) Mental health services. The state plan for providing medical assistance under Title XIX of the Social Security Act, 42 U.S.C. 301, as amended, shall include the following mental health services when such services are provided by community mental health facilities operated by the department of mental health or designated by the department of mental health as a community mental health facility or as an alcohol and drug abuse facility or as a child-serving agency within the comprehensive children's mental health service system established in section 630.097. The department of mental health shall establish by administrative rule the definition and criteria for designation as a community mental health facility and for designation as an alcohol and drug abuse facility. Such mental health services shall include:

(a) Outpatient mental health services including preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established, implemented, monitored, and revised under the auspices of a therapeutic team as a part of client services management;

(b) Clinic mental health services including preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established,

implemented, monitored, and revised under the auspices of a therapeutic team as a part of client services management;

(c) Rehabilitative mental health and alcohol and drug abuse services including home and community-based preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health or alcohol and drug abuse professional in accordance with a plan of treatment appropriately established, implemented, monitored, and revised under the auspices of a therapeutic team as a part of client services management. As used in this section, mental health professional and alcohol and drug abuse professional shall be defined by the department of mental health pursuant to duly promulgated rules. With respect to services established by this subdivision, the department of social services, MO HealthNet division, shall enter into an agreement with the department of mental health. Matching funds for outpatient mental health services, clinic mental health services, and rehabilitation services for mental health and alcohol and drug abuse shall be certified by the department of mental health to the MO HealthNet division. The agreement shall establish a mechanism for the joint implementation of the provisions of this subdivision. In addition, the agreement shall establish a mechanism by which rates for services may be jointly developed;

(16) Such additional services as defined by the MO HealthNet division to be furnished under waivers of federal statutory requirements as provided for and authorized by the federal Social Security Act (42 U.S.C. 301, et seq.) subject to appropriation by the general assembly;

(17) The services of an advanced practice registered nurse with a collaborative practice agreement to the extent that such services are provided in accordance with chapters 334 and 335, and regulations promulgated thereunder;

(18) Nursing home costs for participants receiving benefit payments under subdivision (4) of this subsection to reserve a bed for the participant in the nursing home during the time that the participant is absent due to admission to a hospital for services which cannot be performed on an outpatient basis, subject to the provisions of this subdivision:

(a) The provisions of this subdivision shall apply only if:

a. The occupancy rate of the nursing home is at or above ninety-seven percent of MO HealthNet certified licensed beds, according to the most recent quarterly census provided to the department of health and senior services which was taken prior to when the participant is admitted to the hospital; and

b. The patient is admitted to a hospital for a medical condition with an anticipated stay of three days or less;

(b) The payment to be made under this subdivision shall be provided for a maximum of three days per hospital stay;

(c) For each day that nursing home costs are paid on behalf of a participant under this subdivision during any period of six consecutive months such participant shall, during the same period of six consecutive months, be ineligible for payment of nursing home costs of two otherwise available temporary leave of absence days provided under subdivision (5) of this subsection; and

(d) The provisions of this subdivision shall not apply unless the nursing home receives notice from the participant or the participant's responsible party that the participant intends to return to the nursing home following the hospital stay. If the nursing home receives such notification and all other provisions of this subsection have been satisfied, the nursing home shall provide notice to the participant or the participant's responsible party prior to release of the reserved bed;

(19) Prescribed medically necessary durable medical equipment. An electronic web-based prior authorization system using best medical evidence and care and treatment guidelines consistent with national standards shall be used to verify medical need;

(20) Hospice care. As used in this subdivision, the term "hospice care" means a coordinated program of active professional medical attention within a home, outpatient and

inpatient care which treats the terminally ill patient and family as a unit, employing a medically directed interdisciplinary team. The program provides relief of severe pain or other physical symptoms and supportive care to meet the special needs arising out of physical, psychological, spiritual, social, and economic stresses which are experienced during the final stages of illness, and during dying and bereavement and meets the Medicare requirements for participation as a hospice as are provided in 42 CFR Part 418. The rate of reimbursement paid by the MO HealthNet division to the hospice provider for room and board furnished by a nursing home to an eligible hospice patient shall not be less than ninety-five percent of the rate of reimbursement which would have been paid for facility services in that nursing home facility for that patient, in accordance with subsection (c) of Section 6408 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989);

(21) Prescribed medically necessary dental services. Such services shall be subject to appropriations. An electronic web-based prior authorization system using best medical evidence and care and treatment guidelines consistent with national standards shall be used to verify medical need;

(22) Prescribed medically necessary optometric services. Such services shall be subject to appropriations. An electronic web-based prior authorization system using best medical evidence and care and treatment guidelines consistent with national standards shall be used to verify medical need;

(23) Blood clotting products-related services. For persons diagnosed with a bleeding disorder, as defined in section 338.400, reliant on blood clotting products, as defined in section 338.400, such services include:

(a) Home delivery of blood clotting products and ancillary infusion equipment and supplies, including the emergency deliveries of the product when medically necessary;

(b) Medically necessary ancillary infusion equipment and supplies required to administer the blood clotting products; and

(c) Assessments conducted in the participant's home by a pharmacist, nurse, or local home health care agency trained in bleeding disorders when deemed necessary by the participant's treating physician;

(24) The MO HealthNet division shall, by January 1, 2008, and annually thereafter, report the status of MO HealthNet provider reimbursement rates as compared to one hundred percent of the Medicare reimbursement rates and compared to the average dental reimbursement rates paid by third-party payors licensed by the state. The MO HealthNet division shall, by July 1, 2008, provide to the general assembly a four-year plan to achieve parity with Medicare reimbursement rates and for third-party payor average dental reimbursement rates. Such plan shall be subject to appropriation and the division shall include in its annual budget request to the governor the necessary funding needed to complete the four-year plan developed under this subdivision.

2. Additional benefit payments for medical assistance shall be made on behalf of those eligible needy children, pregnant women and blind persons with any payments to be made on the basis of the reasonable cost of the care or reasonable charge for the services as defined and determined by the **MO HealthNet** division **[**of medical services**]**, unless otherwise hereinafter provided, for the following:

(1) Dental services;

(2) Services of podiatrists as defined in section 330.010;

(3) Optometric services as defined in section 336.010;

(4) Orthopedic devices or other prosthetics, including eye glasses, dentures, hearing aids, and wheelchairs;

(5) Hospice care. As used in this **[**subsection**]** **subdivision**, the term "hospice care" means a coordinated program of active professional medical attention within a home, outpatient and inpatient care which treats the terminally ill patient and family as a unit, employing a medically directed interdisciplinary team. The program provides relief of severe pain or other physical

symptoms and supportive care to meet the special needs arising out of physical, psychological, spiritual, social, and economic stresses which are experienced during the final stages of illness, and during dying and bereavement and meets the Medicare requirements for participation as a hospice as are provided in 42 CFR Part 418. The rate of reimbursement paid by the MO HealthNet division to the hospice provider for room and board furnished by a nursing home to an eligible hospice patient shall not be less than ninety-five percent of the rate of reimbursement which would have been paid for facility services in that nursing home facility for that patient, in accordance with subsection (c) of Section 6408 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989);

(6) Comprehensive day rehabilitation services beginning early posttrauma as part of a coordinated system of care for individuals with disabling impairments. Rehabilitation services must be based on an individualized, goal-oriented, comprehensive and coordinated treatment plan developed, implemented, and monitored through an interdisciplinary assessment designed to restore an individual to optimal level of physical, cognitive, and behavioral function. The MO HealthNet division shall establish by administrative rule the definition and criteria for designation of a comprehensive day rehabilitation service facility, benefit limitations and payment mechanism. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this subdivision shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

3. The MO HealthNet division may require any participant receiving MO HealthNet benefits to pay part of the charge or cost until July 1, 2008, and an additional payment after July 1, 2008, as defined by rule duly promulgated by the MO HealthNet division, for all covered services except for those services covered under subdivisions (14) and (15) of subsection 1 of this section and sections 208.631 to 208.657 to the extent and in the manner authorized by Title XIX of the federal Social Security Act (42 U.S.C. 1396, et seq.) and regulations thereunder. When substitution of a generic drug is permitted by the prescriber according to section 338.056, and a generic drug is substituted for a name-brand drug, the MO HealthNet division may not lower or delete the requirement to make a co-payment pursuant to regulations of Title XIX of the federal Social Security Act. A provider of goods or services described under this section must collect from all participants the additional payment that may be required by the MO HealthNet division under authority granted herein, if the division exercises that authority, to remain eligible as a provider. Any payments made by participants under this section shall be in addition to and not in lieu of payments made by the state for goods or services described herein except the participant portion of the pharmacy professional dispensing fee shall be in addition to and not in lieu of payments to pharmacists. A provider may collect the co-payment at the time a service is provided or at a later date. A provider shall not refuse to provide a service if a participant is unable to pay a required payment. If it is the routine business practice of a provider to terminate future services to an individual with an unclaimed debt, the provider may include uncollected co-payments under this practice. Providers who elect not to undertake the provision of services based on a history of bad debt shall give participants advance notice and a reasonable opportunity for payment. A provider, representative, employee, independent contractor, or agent of a pharmaceutical manufacturer shall not make co-payment for a participant. This subsection shall not apply to other qualified children, pregnant women, or blind persons. If the Centers for Medicare and Medicaid Services does not approve the Missouri MO HealthNet state plan amendment submitted by the department of social services that would allow a provider to deny future services to an individual with uncollected co-payments, the denial of services shall not be allowed. The department of social services shall inform providers regarding the acceptability of denying services as the result of unpaid co-payments.

4. The MO HealthNet division shall have the right to collect medication samples from participants in order to maintain program integrity.

5. Reimbursement for obstetrical and pediatric services under subdivision (6) of subsection 1 of this section shall be timely and sufficient to enlist enough health care providers so that care and services are available under the state plan for MO HealthNet benefits at least to the extent that such care and services are available to the general population in the geographic area, as required under subparagraph (a)(30)(A) of 42 U.S.C. 1396a and federal regulations promulgated thereunder.

6. Beginning July 1, 1990, reimbursement for services rendered in federally funded health centers shall be in accordance with the provisions of subsection 6402(c) and Section 6404 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989) and federal regulations promulgated thereunder.

7. Beginning July 1, 1990, the department of social services shall provide notification and referral of children below age five, and pregnant, breast-feeding, or postpartum women who are determined to be eligible for MO HealthNet benefits under section 208.151 to the special supplemental food programs for women, infants and children administered by the department of health and senior services. Such notification and referral shall conform to the requirements of Section 6406 of P.L. 101-239 and regulations promulgated thereunder.

8. Providers of long-term care services shall be reimbursed for their costs in accordance with the provisions of Section 1902 (a)(13)(A) of the Social Security Act, 42 U.S.C. 1396a, as amended, and regulations promulgated thereunder.

9. Reimbursement rates to long-term care providers with respect to a total change in ownership, at arm's length, for any facility previously licensed and certified for participation in the MO HealthNet program shall not increase payments in excess of the increase that would result from the application of Section 1902 (a)(13)(C) of the Social Security Act, 42 U.S.C. 1396a (a)(13)(C).

10. The MO HealthNet division, may enroll qualified residential care facilities and assisted living facilities, as defined in chapter 198, as MO HealthNet personal care providers.

11. Any income earned by individuals eligible for certified extended employment at a sheltered workshop under chapter 178 shall not be considered as income for purposes of determining eligibility under this section.

208.154. INSUFFICIENT FUNDS, BENEFITS TO BE PAID PRO RATA. — If the funds at the disposal or which may be obtained by the **[**division of family**]** **department of social** services for the payment of public assistance money payment benefits or to or on behalf of any person for medical assistance benefits shall at any time become insufficient to pay the full amount thereof, the amount of any type of payment to or on behalf of each of such persons shall be reduced pro rata in proportion to such deficiency in the total amount available or to become available for such purpose.

208.157. DISCRIMINATION PROHIBITED — PAYMENT REFUSED TO PROVIDER OF MEDICAL ASSISTANCE WHO DISCRIMINATES BECAUSE OF RACE, COLOR OR NATIONAL ORIGIN. — The **[**division of family**]** **department of social** services shall comply with the provisions of Title VI, Public Law 88-352, The Civil Rights Act of 1964, and shall not in any manner deny any aid, care, services or other benefits to nor discriminate against any person on the ground of race, color or national origin; and no payment shall be made on behalf of any eligible needy person to any provider of medical assistance, care or services who refuses to comply with the Act, or who engages in any practices contrary thereto.

208.168. BENEFIT PAYMENTS FOR ADULT DAY CARE, INTERMEDIATE CARE FACILITIES, AND SKILLED NURSING HOMES — AMOUNT PAID, HOW DETERMINED — EFFECTIVE WHEN. — 1. Beginning July 1, 1983, in addition to those benefit payments for medical assistance for

eligible needy persons authorized under the provisions of section 208.152, benefit payments for medical assistance may be made on behalf of those eligible needy persons who are unable to provide for it in whole or in part for adult day care and treatment to those persons who would require placement in an intermediate care facility or skilled nursing home as the latter two terms are defined by section 198.006.

2. Payments under this section shall be made on the basis of the reasonable cost of the care as reasonable cost of the services is defined and determined by the **MO HealthNet** division **[**of family services**]**.

208.175. DRUG UTILIZATION REVIEW BOARD ESTABLISHED, MEMBERS, TERMS, COMPENSATION, DUTIES. — 1. The "Drug Utilization Review Board" is hereby established within the MO HealthNet division and shall be composed of the following health care professionals who shall be appointed by the governor and whose appointment shall be subject to the advice and consent of the senate:

(1) Six physicians who shall include:

(a) Three physicians who hold the doctor of medicine degree and are active in medical practice;

(b) Two physicians who hold the doctor of osteopathy degree and are active in medical practice; and

(c) One physician who holds the doctor of medicine or the doctor of osteopathy degree and is active in the practice of psychiatry;

(2) Six actively practicing pharmacists who shall include:

(a) Three pharmacists who hold bachelor of science degrees in pharmacy and are active as retail or patient care pharmacists;

(b) Two pharmacists who hold advanced clinical degrees in pharmacy and are active in the practice of pharmaceutical therapy and clinical pharmaceutical management; and

(c) One pharmacist who holds either a bachelor of science degree in pharmacy or an advanced clinical degree in pharmacy and is employed by a pharmaceutical manufacturer of Medicaid-approved formulary drugs; and

(3) One certified medical quality assurance registered nurse with an advanced degree.

2. The membership of the drug utilization review board shall include health care professionals who have recognized knowledge and expertise in one or more of the following:

(1) The clinically appropriate prescribing of covered outpatient drugs;

(2) The clinically appropriate dispensing and monitoring of covered outpatient drugs;

(3) Drug use review, evaluation and intervention;

(4) Medical quality assurance.

3. A chairperson shall be elected by the board members. The board shall meet at least once every ninety days. A quorum of eight members, including no fewer than three physicians and three pharmacists, shall be required for the board to act in its official capacity.

4. Members appointed pursuant to subsection 1 of this section shall serve four-year terms, except that of the original members, four shall be appointed for a term of two years, four shall be appointed for a term of three years and five shall be appointed for a term of four years. Members may be reappointed.

5. The members of the drug utilization review board or any regional advisory committee shall receive no compensation for their services other than reasonable expenses actually incurred in the performance of their official duties.

6. The drug utilization review board shall, either directly or through contracts between the MO HealthNet division and accredited health care educational institutions, state medical societies or state pharmacist associations or societies or other appropriate organizations, provide for educational outreach programs to educate practitioners on common drug therapy problems with the aim of improving prescribing and dispensing practices.

7. The drug utilization review board shall monitor drug usage and prescribing practices in the Medicaid program. The board shall conduct its activities in accordance with the requirements of subsection (g) of section 4401 of the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508). The board shall publish an educational newsletter to Missouri Medicaid providers as to its considered opinion of the proper usage of the Medicaid formulary. It shall advise providers of inappropriate drug utilization when it deems it appropriate to do so.

8. The drug utilization review board may provide advice on guidelines, policies, and procedures necessary to establish and maintain the Missouri Rx plan.

9. Office space and support personnel shall be provided by the **MO HealthNet** division **[**of medical services**]**.

10. Subject to appropriations made specifically for that purpose, up to six regional advisory committees to the drug utilization review board may be appointed. Members of the regional advisory committees shall be physicians and pharmacists appointed by the drug utilization review board. Each such member of a regional advisory committee shall have recognized knowledge and expertise in one or more of the following:

(1) The clinically appropriate prescribing of covered outpatient drugs;

(2) The clinically appropriate dispensing and monitoring of covered outpatient drugs;

(3) Drug use review, evaluation, and intervention; or

(4) Medical quality assurance.

208.176. DIVISION TO PROVIDE FOR PROSPECTIVE REVIEW OF DRUG THERAPY. — By December 1, 1992, the **MO HealthNet** division **[**of medical services**]** shall, either directly or through contract with a private organization, provide for a prospective review of drug therapy. The review shall include screening for potential drug therapy problems, duplication, contraindications, interactions, incorrect drug dosage, drug allergy, duration of therapy and clinical abuse or misuse.

208.180. PAYMENT OF BENEFITS, TO WHOM — DISPOSITION OF BENEFIT CHECK OF DECEASED PERSON. — 1. Payment of benefits hereunder shall be made monthly in advance, at such regular intervals as shall be determined by the **family support** division **[**of family services**]**, directly to the recipient, or in the event of **[**his**] such recipient's** incapacity or disability, to **[**his**] such recipient's** legally appointed conservator, and except as provided in subsection 2, in the case of a dependent child to the relative with whom he **or she** lives; provided, that payments for the cost of authorized inpatient hospital or nursing home care in behalf of an individual may be made after the care is received either during his **or her** lifetime or after his **or her** death to the person, firm, corporation, association, institution, or agency furnishing such care, and shall be considered as the equivalent of payment to the individual to whom such care was rendered. All incapacity or disability proceedings of persons applying for or receiving benefits under this law shall be carried out without fee or other expense when in the opinion of the probate division of the circuit court the person is unable to assume such expense. At the discretion of the court such a guardian or conservator may serve without bond.

2. Payment of benefits with respect to a dependent child may be made, pursuant to regulations of the **family support** division **[**of family services**]**, to an individual, other than the relative with whom he **or she** lives, who is interested in or concerned with the welfare of the child, or who is furnishing food, living accommodations or other goods, services or items to or for the dependent child, in the following cases:

(1) Where the relative with whom the child lives has demonstrated an inability to manage funds to the extent that payments to him **or her** have not been or are not being used in the best interest of the child; or

(2) Where the relative has refused to participate in a work or training program to which he **or she** has been referred under section 208.042.

3. Whenever any recipient shall have died after the issuance of a benefit check to him, or on or after the date upon which a benefit check was due and payable to him, and before the same is endorsed or presented for payment by the recipient, the probate division of the circuit court of the county in which the recipient resided at the time of his **or her** death shall, on the filing of an affidavit by one of the next of kin, or creditor of the deceased recipient, and upon the court being satisfied as to the correctness of such affidavit, make an order authorizing and directing such next of kin, or creditor, to endorse and collect the check, which shall be paid upon presentation with a certified copy of the order attached to the check and the proceeds of which shall be applied upon the funeral expenses and the debts of the decedent, duly approved by the probate division of the circuit court, and it shall not be necessary that an administrator be appointed for the estate of the decedent in order to collect the benefit check. No cost shall be charged in such proceedings. Such affidavit filed by one of the next of kin, or creditor, shall state the name of the deceased recipient, the date of his **or her** death, the amount and number of such benefit check, the funeral expenses and debts owed by the decedent, and whether the decedent had any estate other than the unpaid benefit check and, in the event the decedent had an estate that requires administration, the provisions of this section shall not apply and the estate of the decedent shall be administered upon in the same manner as estates of other deceased persons.

208.182. DIVISION TO ESTABLISH ELECTRONIC TRANSFER OF BENEFITS SYSTEM — DISCLOSURE OF INFORMATION PROHIBITED, PENALTY — BENEFITS AND VERIFICATION TO RESIDE IN ONE CARD. — 1. The **family support** division **[**of family services**]** shall establish pilot projects in St. Louis City and in any county with a population of six hundred thousand or more, which shall provide for a system of electronic transfer of benefits to public assistance recipients. Such system shall allow recipients to obtain cash from automated teller machines or point of sale terminals. If less than the total amount of benefits is withdrawn, the recipient shall be given a receipt showing the current status of his **or her** account.

2. The disclosure of any information provided to a financial institution, business or vendor by the **family support** division **[**of family services pursuant to**] under** this section is prohibited. Such financial institution, business or vendor may not use or sell such information and may not divulge the information without a court order. Violation of this subsection is a class A misdemeanor.

3. Subject to appropriations and subject to receipt of waivers from the federal government to prevent the loss of any federal funds, the department of social services shall require the use of photographic identification on electronic benefit transfer cards issued to recipients in this system. Such photographic identification electronic benefit transfer card shall be in a form approved by the department of social services.

4. The **family support** division **[**of family services**]** shall promulgate rules and regulations necessary to implement the provisions of this section pursuant to section 660.017 and chapter 536.

5. The delivery of electronic benefits and the electronic eligibility verification, including, but not limited to, aid to families with dependent children (AFDC), women, infants and children (WIC), early periodic screening diagnosis and treatment (EPSDT), food stamps, supplemental security income (SSI), including Medicaid, child support, and other programs, shall reside in one card that may be enabled by function from time to time in a convenient manner.

208.190. DIVISION TO COMPLY WITH ACTS OF CONGRESS RELATING TO SOCIAL SECURITY BENEFITS. — The **family support** division **[**of family services**]** is hereby directed to comply with the provisions of any act of Congress providing for the distribution and expenditure of funds of the United States appropriated by Congress for Social Security benefits, and to comply with any and all rules and regulations attached to or made a part of such appropriation act and not inconsistent with the constitution and laws of Missouri.

208.204. MEDICAL CARE FOR CHILDREN IN CUSTODY OF DEPARTMENT, PAYMENT — DIVISION MAY ADMINISTER FUNDS — INDIVIDUALIZED SERVICE PLANS DEVELOPED FOR CHILDREN IN STATE CUSTODY EXCLUSIVELY BASED ON NEED FOR MENTAL HEALTH SERVICES. — 1. The **MO HealthNet** division **[**of medical services**]** may administer the funds appropriated to the department of social services or any division of the department for payment of medical care provided to children in the legal custody of the department of social services or any division of the department.

2. Through judicial review or family support team meetings, the children's division shall determine which cases involve children in the system due exclusively to a need for mental health services, and identify the cases where no instance of abuse, neglect, or abandonment exists.

3. Within sixty days of a child being identified pursuant to subsection 2 of this section, an individualized service plan shall be developed by the applicable state agencies responsible for providing or paying for any and all appropriate and necessary services. The individualized service plan shall specifically identify which agencies are going to pay for, subject to appropriations, and provide such services, and such plan shall be submitted to the court for approval. Services shall be provided in the least restrictive, most appropriate environment that meets the needs of the child including home, community-based treatment, and supports. The child's family shall actively participate in designing the individualized service plan for the child. The department of social services shall notify the appropriate judge of the child and shall submit the individualized service plan developed for approval by the judge. The child may be returned by the judge to the custody of the child's family.

4. When the children are returned to their family's custody and become the service responsibility of the department of mental health, the appropriate moneys to provide for the care of each child in each particular situation shall be billed to the department of social services by the department of mental health pursuant to a comprehensive financing plan jointly developed by the two departments.

208.210. UNDECLARED INCOME OR PROPERTY — BENEFITS MAY BE RECOVERED BY DIVISION, WHEN. — 1. If at any time during the continuance of public assistance to any person, the recipient thereof, or the husband or wife of the recipient with whom he **or she** is living, is possessed or becomes possessed of any property or income in excess of the amount declared at the time of application or reinvestigation of his **or her** case and in such amount as would affect his **or her** needs or right to receive benefits, it shall be the duty of the recipient, or the husband or the wife of the recipient, to notify the **[**county welfare office**] family support division** of the receipt or possession of such property or income, and the **family support** division **[**of family services**]** may, after investigation, either cancel the benefits or alter the amount thereof in accordance with the circumstances.

2. Any benefits paid when the recipient or **[**his**] the recipient's** spouse is in possession of such undeclared property or income shall be recoverable by the **[**division of family**] department of social** services as a debt due to the state. If during the life, or upon the death, of any person who is receiving or has received benefits, it is found that the recipient or **[**his**] the recipient's** spouse was possessed of any property or income in excess of the amount reported that would affect his **or her** needs or right to receive benefits, or if it be shown such benefits were obtained through misrepresentation, nondisclosure of material facts, or through mistake of fact, the amount of benefits, without interest, may be recovered from him **or her** or his **or her** estate by the **[**division of family**] department of social** services as a debt due the state.

3. The possession of undeclared property by a recipient or **[**his**] a recipient's** spouse with whom **[**he**] the recipient** is living shall be prima facie evidence of its ownership during the time benefits were granted, and the burden to prove otherwise shall be upon the recipient or **[**his**] the recipient's** legal representative.

4. The federal government shall be entitled to share in any amount collected under the provisions of this section, however, not to exceed the amount contributed by the federal government in each case. The amount due the United States shall be promptly paid or credited upon collection to the designated agency of the federal government by the **[**division of family**]** **department of social** services.

208.217. DEPARTMENT MAY OBTAIN MEDICAL INSURANCE INFORMATION — FAILURE TO PROVIDE INFORMATION, ATTORNEY GENERAL TO BRING ACTION, PENALTY — CONFIDENTIAL INFORMATION, PENALTY FOR DISCLOSURE — DEFINITIONS. — 1. As used in this section, the following terms mean:

(1) "Data match", a method of comparing the department's information with that of another entity and identifying those records which appear in both files. This process is accomplished by a computerized comparison by which both the department and the entity utilize a computer readable electronic media format;

(2) "Department", the Missouri department of social services **[**or any division thereof**]**;

(3) "Entity":

(a) Any insurance company as defined in chapter 375 or any public organization or agency transacting or doing the business of insurance; or

(b) Any health service corporation or health maintenance organization as defined in chapter 354 or any other provider of health services as defined in chapter 354;

(c) Any self-insured organization or business providing health services as defined in chapter 354; or

(d) Any third-party administrator (TPA), administrative services organization (ASO), or pharmacy benefit manager (PBM) transacting or doing business in Missouri or administering or processing claims or benefits, or both, for residents of Missouri;

(4) "Individual", any applicant or present or former participant receiving public assistance benefits under sections 208.151 to 208.159 **[**and section 208.162**]**;

(5) "Insurance", any agreement, contract, policy plan or writing entered into voluntarily or by court or administrative order providing for the payment of medical services or for the provision of medical care to or on behalf of an individual;

(6) "Request", any inquiry by the **MO HealthNet** division **[**of medical services**]** for the purpose of determining the existence of insurance where the department may have expended MO HealthNet benefits.

2. The department may enter into a contract with any entity, and the entity shall, upon request of the department of social services, inform the department of any records or information pertaining to the insurance of any individual.

3. The information which is required to be provided by the entity regarding an individual is limited to those insurance benefits that could have been claimed and paid by an insurance policy agreement or plan with respect to medical services or items which are otherwise covered under the MO HealthNet program.

4. A request for a data match made by the department pursuant to this section shall include sufficient information to identify each person named in the request in a form that is compatible with the record-keeping methods of the entity. Requests for information shall pertain to any individual or the person legally responsible for such individual and may be requested at a minimum of twice a year.

5. The department shall reimburse the entity which is requested to supply information as provided by this section for actual direct costs, based upon industry standards, incurred in furnishing the requested information and as set out in the contract. The department shall specify the time and manner in which information is to be delivered by the entity to the department. No reimbursement will be provided for information requested by the department other than by means of a data match.

6. Any entity which has received a request from the department pursuant to this section shall provide the requested information in compliance with HIPPAA required transactions within sixty days of receipt of the request. Willful failure of an entity to provide the requested information within such period shall result in liability to the state for civil penalties of up to ten dollars for each day thereafter. The attorney general shall, upon request of the department, bring an action in a circuit court of competent jurisdiction to recover the civil penalty. The court shall determine the amount of the civil penalty to be assessed. A health insurance carrier, including instances where **[**they act**]** **it acts** in the capacity of an administrator of an ASO account, and a TPA acting in the capacity of an administrator for a fully insured or self-funded employer, is required to accept and respond to the HIPPAA ANSI standard transaction for the purpose of validating eligibility.

7. The director of the department shall establish guidelines to assure that the information furnished to any entity or obtained from any entity does not violate the laws pertaining to the confidentiality and privacy of an applicant or participant receiving MO HealthNet benefits. Any person disclosing confidential information for purposes other than set forth in this section shall be guilty of a class A misdemeanor.

8. The application for or the receipt of benefits under sections 208.151 to 208.159 **[**and section 208.162**]** shall be deemed consent by the individual to allow the department to request information from any entity regarding insurance coverage of said person.

208.225. MEDICAID PER DIEM RATE RECALCULATION FOR NURSING HOMES, AMOUNT. — 1. To implement fully the provisions of section 208.152, the **MO HealthNet** division **[**of medical services**]** shall calculate the Medicaid per diem reimbursement rates of each nursing home participating in the Medicaid program as a provider of nursing home services based on its costs reported in the Title XIX cost report filed with the **MO HealthNet** division **[**of medical services**]** for its fiscal year as provided in subsection 2 of this section.

2. The recalculation of Medicaid rates to all Missouri facilities will be performed as follows: effective July 1, 2004, the department of social services shall use the Medicaid cost report containing adjusted costs for the facility fiscal year ending in 2001 and redetermine the allowable per-patient day costs for each facility. The department shall recalculate the class ceilings in the patient care, one hundred twenty percent of the median; ancillary, one hundred twenty percent of the median; and administration, one hundred ten percent of the median cost centers. Each facility shall receive as a rate increase one-third of the amount that is unpaid based on the recalculated cost determination.

208.300. VOLUNTEER PROGRAM FOR IN-HOME RESPITE CARE OF THE ELDERLY — CREDIT FOR SERVICE, LIMITATION. — The **[**division of aging of the department of social**]** **department of health and senior** services may establish a program under which elderly persons who are sixty years of age or older and others who have designated an elderly person as a beneficiary may volunteer their time and services to an in-home service or voluntary agency serving the elderly or to a not-for-profit organization or agency which provides services that benefit the elderly which is approved by the division and receive credit for providing volunteer respite service, which credit may then be drawn upon by such elderly persons or designated elderly beneficiaries when they themselves or their families need such respite services. The division shall establish a registry of names of such volunteers and shall, monthly or as often as it deems necessary for efficient management of the program, credit each of such volunteers with the number of hours of service each has performed for organizations and agencies approved by the division. No person serving as a volunteer pursuant to any program established by the division under the provisions of this section shall be credited for more than ten hours of volunteer service under this program per week.

208.325. SELF-SUFFICIENCY PROGRAM, TARGETED HOUSEHOLDS — ASSESSMENTS — SELF-SUFFICIENCY PACTS, CONTENTS, INCENTIVES FOR PARTICIPATION, REVIEW BY DIRECTOR, TERM OF PACT — TRAINING FOR CASE MANAGERS — SANCTIONS FOR FAILURE TO COMPLY WITH PACT PROVISIONS, REVIEW — EVALUATION OF PROGRAM — RULES — WAIVER FROM FEDERAL LAW. — 1. Beginning October 1, 1994, the department of social services shall enroll AFDC recipients in the self-sufficiency program established by this section. The department may target AFDC households which meet at least one of the following criteria:

(1) Received AFDC benefits in at least eighteen out of the last thirty-six months; or

(2) Are parents under twenty-four years of age without a high school diploma or a high school equivalency certificate and have a limited work history; or

(3) Whose youngest child is sixteen years of age, or older; or

(4) Are currently eligible to receive benefits pursuant to section 208.041, an assistance program for unemployed married parents.

2. The department shall, subject to appropriation, enroll in self-sufficiency pacts by July 1, 1996, the following AFDC households:

(1) Not fewer than fifteen percent of AFDC households who are required to participate in the FUTURES program under sections 208.405 and 208.410, and who are currently participating in the FUTURES program;

(2) Not fewer than five percent of AFDC households who are required to participate in the FUTURES program under sections 208.405 and 208.410, but who are currently not participating in the FUTURES program; and

(3) By October 1, 1997, not fewer than twenty-five percent of aid to families with dependent children recipients, excluding recipients who meet the following criteria and are exempt from mandatory participation in the family self-sufficiency program:

(a) Disabled individuals who meet the criteria for coverage under the federal Americans with Disabilities Act, P.L. 101-336, and are assessed as lacking the capacity to engage in full-time or part-time subsidized employment;

(b) Parents who are exclusively responsible for the full-time care of disabled children; and

(c) Other families excluded from mandatory participation in FUTURES by federal guidelines.

3. Upon enrollment in the family self-sufficiency program, a household shall receive an initial assessment of the family's educational, child care, employment, medical and other supportive needs. There shall also be assessment of the recipient's skills, education and work experience and a review of other relevant circumstances. Each assessment shall be completed in consultation with the recipient and, if appropriate, each child whose needs are being assessed.

4. Family assessments shall be used to complete a family self-sufficiency pact in negotiation with the family. The family self-sufficiency pact shall identify a specific point in time, no longer than twenty-four months after the family enrolls in the self-sufficiency pact, when the family's primary self-sufficiency pact shall conclude. The self-sufficiency pact is subject to reassessment and may be extended for up to an additional twenty-four months, but the maximum term of any self-sufficiency pact shall not exceed a total of forty-eight months. Family self-sufficiency pacts should be completed and entered into within three months of the initial assessment.

5. The **family support** division **[**of family services**]** shall complete family self-sufficiency pact assessments and/or may contract with other agencies for this purpose, subject to appropriation.

6. Family self-sufficiency assessments shall be used to develop a family self-sufficiency pact after a meeting. The meeting participants shall include:

(1) A representative of the **family support** division **[**of family services**]**, who may be a case manager or other specially designated, trained and qualified person authorized to negotiate the family self-sufficiency pact and follow-up with the family and responsible state agencies to

ensure that the self-sufficiency pact is reviewed at least annually and, if necessary, revised as further assessments, experience, circumstances and resources require;

(2) The recipient and, if appropriate, another family member, assessment personnel or an individual interested in the family's welfare.

7. The family self-sufficiency pact shall:

(1) Be in writing and establish mutual state and family member obligations as part of a plan containing goals, objectives and timelines tailored to the needs of the family and leading to self-sufficiency;

(2) Identify available support services such as subsidized child care, medical services and transportation benefits during a transition period, to help ensure that the family will be less likely to return to public assistance.

8. The family self-sufficiency pact shall include a parent and child development plan to develop the skills and knowledge of adults in their role as parents to their children and partners of their spouses. Such plan shall include school participation records. The department of social services shall, in cooperation with the department of health and senior services, the department of mental health, and the "Parents as Teachers" program in the department of elementary and secondary education, develop or make available existing programs to be presented to persons enrolled in a family self-sufficiency pact.

9. A family enrolled in a family self-sufficiency pact may own or possess property as described in subdivision (6) of subsection 2 of section 208.010 with a value of five thousand dollars instead of the one thousand dollars as set forth in subdivision (6) of subsection 2 of section 208.010.

10. A family receiving AFDC may own one automobile, which shall not be subject to property value limitations provided in section 208.010.

11. Subject to appropriations and necessary waivers, the department of social services may disregard from one-half to two-thirds of a recipient's gross earned income for job-related and other expenses necessary for a family to make the transition to self-sufficiency.

12. A recipient may request a review by the director of the **family support** division **[**of family services**]**, or **[**his**]** **the director's** designee, of the family self-sufficiency pact or any of its provisions that the recipient objects to because it is inappropriate. After receiving an informal review, a recipient who is still aggrieved may appeal the results of that review under the procedures in section 208.080.

13. The term of the family self-sufficiency pact may only be extended due to circumstances creating barriers to self-sufficiency and the family self-sufficiency pact may be updated and adjusted to identify and address the removal of these barriers to self-sufficiency.

14. Where the capacity of services does not meet the demand for the services, limited services may be substituted and the pact completion date extended until the necessary services become available for the participant. The pact shall be modified appropriately if the services are not delivered as a result of waiting lists or other delays.

15. The **family support** division **[**of family services**]** shall establish a training program for self-sufficiency pact case managers which shall include but not be limited to:

(1) Knowledge of public and private programs available to assist recipients to achieve self-sufficiency;

(2) Skills in facilitating recipient access to public and private programs; and

(3) Skills in motivating and in observing, listening and communicating.

16. The **family support** division **[**of family services**]** shall ensure that families enrolled in the family self-sufficiency program make full use of the federal earned income tax credit.

17. Failure to comply with any of the provisions of a self-sufficiency pact developed pursuant to this section shall result in a recalculation of the AFDC cash grant for the household without considering the needs of the caretaker recipient.

18. If a suspension of caretaker benefits is imposed, the recipient shall have the right to a review by the director of the **family support** division **[**of family services**]** or **[**his**]** **the director's** designee.

19. After completing the family self-sufficiency program, should a recipient who has previously received thirty-six months of aid to families with dependent children benefits again become eligible for aid to families with dependent children benefits, the cash grant amount shall be calculated without considering the needs of caretaker recipients. The limitations of this subsection shall not apply to any applicant who starts a self-sufficiency pact on or before July 1, 1997, or to any applicant who has become disabled or is receiving or has received unemployment benefits since completion of a self-sufficiency program.

20. There shall be conducted a comprehensive evaluation of the family self-sufficiency program contained in the provisions of this act and the job opportunities and basic skills training program ("JOBS" or "FUTURES") as authorized by the provisions of sections 208.400 to 208.425. The evaluation shall be conducted by a competitively chosen independent and impartial contractor selected by the commissioner of the office of administration. The evaluation shall be based on specific, measurable data relating to those who participate successfully and unsuccessfully in these programs and a control group, factors which contributed to such success or failures, the structure of such programs and other areas. The evaluation shall include recommendations on whether such programs should be continued and suggested improvements in such programs. The first such evaluation shall be completed and reported to the governor and the general assembly by September 1, 1997. Future evaluations shall be completed every three years thereafter. In addition, in 1997, and every three years thereafter, the oversight division of the committee on legislative research shall complete an evaluation on general relief, child care and development block grants and social services block grants.

21. The director of the department of social services may promulgate rules and regulations, pursuant to section 660.017, and chapter 536 governing the use of family self-sufficiency pacts in this program and in other programs, including programs for noncustodial parents of children receiving assistance.

22. The director of the department of social services shall apply to the United States Secretary of Health and Human Services for all waivers of requirements under federal law necessary to implement the provisions of this section with full federal participation. The provisions of this section shall be implemented, subject to appropriation, as waivers necessary to ensure continued federal participation are received.

208.337. ACCOUNTS FOR CHILDREN WITH CUSTODIAL PARENTS IN JOBS (OR FUTURES), CONDITIONS, LIMITATIONS — WAIVERS REQUIRED. — 1. The division may deposit funds into an account on behalf of children whose custodial parent is a participant in the program authorized pursuant to the provisions of sections 208.400 to 208.425, and whose noncustodial parent is participating in a state job training and adult educational program approved by the **family support** division **[**of family services**]**. If agreed upon by the parties, funds may also be deposited for this purpose when the noncustodial parent terminates participation in the job training or educational program, until the custodial parent completes participation in the program authorized pursuant to the provisions of sections 208.400 to 208.425. The amount deposited for each child shall not exceed the portion of current child support paid by the noncustodial parent, to which the state of Missouri is entitled according to applicable state and federal laws. Money so received shall be governed by this section notwithstanding other state laws and regulations to the contrary.

2. Any money deposited by the division on behalf of a child, as provided in subsection 3 of this section, shall be accounted for in the name of the child. Any money in the account of a child may be expended only for care or services for the child as agreed upon by both parents. The division shall, by rule adopted pursuant to section 454.400 and chapter 536, establish procedures for the establishment of the accounts, use, expenditure, and accounting of the money, and the protection of the money against theft, loss or misappropriation.

3. The division shall deposit money appropriated for the purposes of this section with the state treasurer. Any earnings attributable to the money in the account of a child shall be credited to that child's account.

4. Each child for whose benefit funds have been received by the division, and the parents of such child, shall be furnished annually by the division of **[**budget and**]** finance **and administrative services** of the department of social services with a statement listing all transactions involving the funds which have been deposited on the child's behalf, to include each receipt and disbursement, if any.

5. (1) The director of the department of social services shall apply for all waivers of requirements under federal law to implement the provisions of this section.

(2) This program shall not be implemented until the waiver has been obtained from the Secretary of the Department of Health and Human Services by the director of the department of social services.

208.345. PROTOCOLS FOR REFERRAL OF PUBLIC ASSISTANCE RECIPIENTS TO FEDERAL PROGRAMS. — The **family support** division **[**of family services**]**, with the cooperation of the division of vocational rehabilitation, shall establish a protocol where persons who qualify for public assistance, including aid to families with dependent children, general relief and medical assistance, because of a disability may be directed to an appropriate federal agency to apply for other benefits. The **family support** division **[**of family services**]** shall also establish a procedure to identify applicants and recipients who may be entitled to supplement or supplant state benefits with other benefits through the Social Security Disability, Railroad Retirement, Supplemental Security Income, Veterans, Qualified Medicare Beneficiary and Specified Low Income Medicare Beneficiary and other programs.

208.400. DEFINITIONS. — As used in sections 208.400 to 208.425 and section 452.311, the following terms mean:

(1) "Case manager", an employee of the division having responsibility for the assessment of the participant's educational and employment needs and for assisting the participant in the development and execution of the service plan;

(2) "Community work experience program", as defined under section 201 of the Family Support Act of 1988 (P.L. 100-485), a program designed to enhance the employability of participants not otherwise able to obtain employment through providing training and an actual work experience;

(3) "Department", the department of social services;

(4) "Division", the **family support** division **[**of family services**]** of the department of social services;

(5) "Educational component", that portion of the Missouri job opportunities and basic skills training (JOBS) program which is intended to provide educational opportunities for participants. This component will include:

(a) "Adult basic education", any part-time or full-time program of instruction emphasizing reading, writing and computation skills, including day classes or night classes, which prepares a person to earn a Missouri high school equivalency certificate pursuant to section 161.093;

(b) "High school education", instruction in two or more grades not lower than the ninth nor higher than the twelfth grade which leads to the award of a diploma provided by any school to a person, to the extent that such instruction conforms to the requirements established pursuant to section 201 of P.L. 100-485 and federal regulations promulgated under said section;

(c) "Postsecondary education", any part-time or full-time program of instruction in a community college, college or university as allowed by regulations of the department of health and human services; and

(d) "Vocational education", any part-time or full-time program of instruction of less than baccalaureate grade, including day classes or night classes, which prepares a person for gainful employment;

(6) "Employment component", that portion of the Missouri JOBS program which is intended to provide employment counseling, training, and referral and employment opportunities for participants;

(7) "JOBS", the job opportunities and basic skills training program for AFDC recipients developed by the **family support** division **[**of family services**]**;

(8) "Participant", any recipient who is participating in the Missouri JOBS program;

(9) "Recipient", any person receiving aid to families with dependent children benefits under section 208.040 or 208.041;

(10) "Service plan", as defined in section 201 of the Family Support Act of 1988 (P.L. 100-485), an employability plan designating the services to be provided by the department and the activities in which the participant will be involved; and

(11) "Transitional child care services", child day care services provided, as defined in sections 301 and 302 of the Family Support Act of 1988 (P.L. 100-485), to participants who have become ineligible for such services due to the increased wages of or hours of employment.

208.405. JOBS PROGRAM ESTABLISHED, DUTIES OF DEPARTMENT. — 1. No later than October 1, 1990, the **family support** division **[**of family services**]** shall establish and operate a job opportunities and basic skills training (JOBS) program for AFDC recipients.

2. The **family support** division **[**of family services**]**, subject to appropriation, shall administer the job opportunities and basic skills training (JOBS) program as provided in Part F of Title IV of the Social Security Act.

3. Pursuant to Public Law 100-485, state funds expended for education, training and employment activities, including supportive services, to assist aid to families with dependent children recipients in becoming self-sufficient shall be no less than the level expended for such purposes in fiscal year 1986.

4. The department shall plan and coordinate all the JOBS program with the Missouri Job Training Coordinating Council, educational training and basic skills training and opportunities afforded under the provisions of this act with the department of elementary and secondary education, the department of labor and industrial relations and the department of economic development so as not to duplicate any existing program and services now offered. The existing personnel in those departments together with such added personnel as may be authorized by appropriations shall be utilized in carrying out the provisions of this act.

208.471. MEDICAID REIMBURSEMENT PAYMENTS TO HOSPITALS — FRA ASSESSMENTS — ENHANCED GRADUATE MEDICAL EDUCATION PAYMENTS — ALTERNATIVE REIMBURSEMENT PAYMENTS TO HOSPITAL FOR MEDICAID PROVIDER AGREEMENTS OR REIMBURSEMENT FOR OUTPATIENT SERVICES, CERTAIN LIMITS NOT TO APPLY TO OUTPATIENT SERVICES. — 1. The department of social services shall make payments to those hospitals which have a Medicaid provider agreement with the department. Prior to June 30, 2002, the payment shall be in an annual, aggregate statewide amount which is at least the same as that paid in fiscal year 1991-1992 pursuant to rules in effect on August 30, 1991, under the federally approved state plan amendments.

2. Beginning July 1, 2002, sections 208.453 to 208.480 shall expire one hundred eighty days after the end of any state fiscal year in which the aggregate federal reimbursement allowance (FRA) assessment on hospitals is more than eighty-five percent of the sum of aggregate direct Medicaid payments, uninsured add-on payments and enhanced graduate medical education payments, unless during such one hundred eighty-day period, such payments or assessments are adjusted prospectively by the director of the department of social services to comply with the eighty-five percent test imposed by this subsection. Enhanced graduate medical education payments shall not be included in the calculation required by this subsection if the general assembly appropriates the state's share of such payments from a source other than the federal reimbursement allowance. For purposes of this section, direct Medicaid payments, uninsured add-on payments and enhanced graduate medical education payments shall:

(1) Include direct Medicaid payments, uninsured add-on payments and enhanced graduate medical education payments as defined in state regulations as of July 1, 2000;

(2) Include payments that substantially replace or supplant the payments described in subdivision (1) of this subsection;

(3) Include new payments that supplement the payments described in subdivision (1) of this subsection; and

(4) Exclude payments and assessments of acute care hospitals with an unsponsored care ratio of at least sixty-five percent that are licensed to operate less than fifty inpatient beds in which the state's share of such payments are made by certification.

3. The **MO HealthNet** division **[**of medical services**]** may provide an alternative reimbursement for outpatient services. Other provisions of law to the contrary notwithstanding, the payment limits imposed by subdivision (2) of subsection 1 of section 208.152 shall not apply to such alternative reimbursement for outpatient services. Such alternative reimbursement may include enhanced payments or grants to hospital-sponsored clinics serving low income uninsured patients.

208.477. MEDICAID ELIGIBILITY, CRITERIA USED, EFFECT WHEN MORE RESTRICTIVE THAN FY2003. — For each state fiscal year, if the criteria used to determine eligibility for Medicaid coverage under a Section 1115 waiver are more restrictive than those in place in state fiscal year 2003, the **MO HealthNet** division **[**of medical services**]** shall:

(1) Reduce the federal reimbursement allowance assessment for that fiscal year. The reduction shall equal the amount of federal reimbursement allowance appropriated to fund the Section 1115 waiver in state fiscal year 2002 multiplied by the percentage decrease in Medicaid waiver enrollment as a result of using the more restrictive waiver eligibility standards; and

(2) Increase cost of the uninsured payments for that fiscal year. The increased payments shall offset the higher uninsured costs resulting from the use of more restrictive Medicaid waiver eligibility criteria, as determined by the department of social services.

208.533. COMMISSION ESTABLISHED — MEMBERS, QUALIFICATIONS — TERMS — EXPENSES. — 1. There is hereby established a twenty-member "Commission on the Special Health, Psychological and Social Needs of Minority Older Individuals" under the **[**division of aging**]** **department of health and senior services**. The commission shall consist of the following members:

(1) The directors of the departments of health and senior services, mental health and social services or their designees;

(2) The directors of the office of minority health and the **[**division of aging**]** **department of health and senior services** who shall serve as cochairs of the commission;

(3) Two members of the Missouri house of representatives, one from each major political party represented in the house of representatives, appointed by the speaker of the house who shall serve in a nonvoting, advisory capacity;

(4) Two members of the senate, one from each major political party represented in the senate, appointed by the president pro tem of the senate who shall serve in a nonvoting, advisory capacity;

(5) A representative of the office of the lieutenant governor who shall serve in a nonvoting, advisory capacity; and

(6) Ten individuals appointed by the governor with the advice and consent of the senate who are currently working in the field of minority elderly health, psychological or social problems who have demonstrated expertise in one or more of the following areas: treatment of cardiovascular, cancer and diabetic conditions; nutrition; community-based health services; legal services; elderly consumer advocacy; gerontology or geriatrics; social work and other related services including housing. At least two of the individuals appointed by the governor shall be minority older individuals. The members appointed by the governor shall be residents of

Missouri. Any vacancy on the commission shall be filled in the same manner as the original appointment.

2. Members appointed by the governor shall serve for three-year terms. Other members, except legislative members, shall serve for as long as they hold the position which made them eligible for appointment. Legislative members shall serve during their current term of office but may be reappointed.

3. Members of the commission shall not be compensated for their services, but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties. The office of administration and the departments of health and senior services, mental health and social services shall provide such support as the commission requires to aid it in the performance of its duties.

208.606. PUBLIC EDUCATION, AT-RISK ELDERLY, PURPOSE — ACTION STEPS TO BE DEVISED, PREFERENCE FOR CONTACTS. — 1. The department of **[**social**]** **health and senior** services **[**through its division of aging**]**, in collaboration with other state agencies, shall devise and implement a competent, thorough and ongoing public education program aimed at at-risk elderly persons. The purpose of this public education program is to identify regularly and inform fully elderly citizens of the existence, eligibility criteria, means of access and location of existing federal and state elderly service programs that would serve to alleviate personal situations that would otherwise lead to hunger and deterioration of health. Such programs would include, but are not limited to, the Qualified Medicare Beneficiary Program, the USDA **[**Food Stamp**]** **Supplemental Nutrition Assistance** Program, the Medical Assistance Spenddown Program, the availability of local food pantries, the availability of caseworkers to take application in the home for elderly service programs, and any other program that might become available to assist elderly persons in the future.

2. This public education program shall devise action steps with preference toward personal as opposed to mass media contacts. Among the methods to be used may be:

(1) Offering grants to local nonprofit service agencies to carry out public education programs;

(2) Producing brochures in easy-to-read language and formats using enlarged lettering;

(3) Holding information sessions at senior nutrition sites and with senior service agencies, such as the area agencies on aging, and with other agencies or service providers who serve the elderly;

(4) Organizing volunteer gatekeeper programs in communities with a high percentage of vulnerable elderly persons;

(5) Applying for a statewide Volunteers in Service to America **[**or the**]** **(**VISTA**)** Program to assist the state in organizing volunteer public education efforts.

208.609. COORDINATION OF EXISTING TRANSPORTATION SERVICES — VOLUNTARY TRANSPORTATION SYSTEMS — EMERGENCY FOOD SERVICES. — 1. The departments of social services, elementary and secondary education, transportation, mental health, and health shall establish a task force which shall devise plans to integrate and coordinate existing transportation services such as school buses, OATS, Head Start, volunteer and other programs to take full advantage of existing transportation resources for the benefit of elderly and other needy populations.

2. The **[**division of aging**]** **department of health and senior services** shall apply for a statewide Volunteers in Service to America Program for the purpose of helping to organize volunteer transportation systems in various communities with large numbers of at-risk elderly persons.

3. The **[**division of aging**]** **department of health and senior services** shall devise models and provide training for senior housing facilities which seek to provide emergency food services to residents and neighbors.

208.621. PROGRAM, AT-RISK ELDERLY. — The **[**division of aging**]** **department of health and senior services** shall apply for a statewide Volunteers in Service to America program to assist the division in organizing and coordinating volunteer resources in areas with a substantial high-risk elderly population, especially geared toward identifying at-risk elderly persons, personally contacting them with important information and friendly reassurance and to assist in volunteer transportation services.

208.636. REQUIREMENTS OF PARENTS OR GUARDIANS. — Parents and guardians of uninsured children eligible for the program established in sections 208.631 to 208.657 shall:

(1) Furnish to the department of social services the uninsured child's Social Security number or numbers, if the uninsured child has more than one such number;

(2) Cooperate with the department of social services in identifying and providing information to assist the state in pursuing any third-party insurance carrier who may be liable to pay for health care;

(3) Cooperate with the **family support division of the** department of social services**[**, division of child support enforcement**]** in establishing paternity and in obtaining support payments, including medical support;

(4) Demonstrate upon request their child's participation in wellness programs including immunizations and a periodic physical examination. This subdivision shall not apply to any child whose parent or legal guardian objects in writing to such wellness programs including immunizations and an annual physical examination because of religious beliefs or medical contraindications; and

(5) Demonstrate annually that their total net worth does not exceed two hundred fifty thousand dollars in total value.

208.780. DEFINITIONS. — As used in sections 208.780 to 208.798, the following terms shall mean:

(1) "Asset test", the asset limits as defined by the Medicare Prescription Drug Improvement and Modernization Act, P.L. 108-173;

(2) "Contractor", the person, partnership, or corporate entity which has an approved contract with the department to administer the pharmaceutical assistance program established under sections 208.780 to 208.798 and this chapter;

(3) "Department", the department of social services;

(4) "Division", the **MO HealthNet division of the** department of social services**[**, division of medical services**]**;

(5) "Enrollee", a resident of this state who meets the conditions specified in sections 208.780 to 208.798 and in department regulations relating to eligibility for participation in the Missouri Rx plan and whose application for enrollment in the Missouri Rx plan has been approved by the department;

(6) "Federal poverty guidelines", the federal poverty guidelines updated annually in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. Section 9902(2);

(7) "Liquid assets", assets used in the eligibility determination process as defined by the Medicare Modernization Act;

(8) "Medicaid dual eligible" or "dual eligible", a person who is eligible for both Medicare and Medicaid as defined by the Medicare Modernization Act;

(9) "Medicare Modernization Act" or "MMA", the Medicare Prescription Drug, Improvement and Modernization Act of 2003, P.L. 108-173;

(10) "Medicare Part D prescription drug benefit", the prescription benefit provided under the Medicare Modernization Act, as it may vary from one prescription drug plan to another;

(11) "Missouri resident", a person who has or intends to have a fixed place of residence in Missouri, with the present intent of maintaining a permanent home in Missouri for the indefinite future;

(12) "Missouri Rx plan", the state pharmacy assistance program created in section 208.782, or the combination of state and federal programs providing services to the population described in section 208.784;

(13) "Participating pharmacy", a pharmacy that elects to participate as a pharmaceutical provider and enters into a participating network agreement with the department or contractor;

(14) "Prescription drug plan" or "PDP", nongovernmental drug plans under contract with the Center for Medicare and Medicaid Services to provide prescription benefits under the Medicare Modernization Act;

(15) "Prescription drugs", outpatient prescription drugs that have been approved as safe and effective by the United States Food and Drug Administration. Prescription drugs do not include experimental drugs or over-the-counter pharmaceutical products;

(16) "Program", the Missouri Rx plan created under sections 208.780 to 208.798.

209.010. DIVISION TO AID BLIND PERSONS. — The duties of the **family support** division **[**of family services**]** shall be to prepare and maintain a complete register of the blind persons within this state and to collate information concerning their physical condition, cause of blindness and such additional information as may be useful to the division in the performance of its other duties as herein enumerated, and to investigate and report to the general assembly from time to time the condition of the blind within this state, with its recommendations concerning the best method of relief for the blind; to adopt such measures as the division may deem expedient for the prevention and cure of blindness; to establish and maintain at such places within this state as the division may deem expedient shops and workrooms for the employment of blind persons capable of useful labor, and to provide superintendence and other assistance therefor and instruction therein; to compensate the persons so employed in the manner and to the extent that the division shall deem proper; to provide such means for the sale of the products of the blind as the division shall deem expedient; to act as a bureau of information for the purpose of securing employment for the blind of this state elsewhere than in the shops and workrooms of the division and to this end the division is authorized to procure and furnish materials and tools and to furnish aid and assistance to blind persons engaged in home industries and to buy and sell the products of the blind wherever and however produced within this state; to provide for the temporary cost of the food, raiment and shelter of deserving blind persons engaged in useful labor; to ameliorate the condition of the blind by such means consistent with the provisions of sections 209.010 to 209.160 as the division may deem expedient; provided, however, that no part of the funds appropriated by the state shall be used for solely charitable purposes; the object and purpose of sections 209.010 to 209.160 being to encourage capable blind persons in the pursuit of useful labor and to provide for the prevention and cure of blindness.

[192.935.] 209.015. BLINDNESS EDUCATION, SCREENING AND TREATMENT PROGRAM FUND — USES OF FUND — RULEMAKING. — 1. There is hereby created in the state treasury the "Blindness Education, Screening and Treatment Program Fund". The fund shall consist of moneys donated pursuant to subsection 7 of section 301.020 and subsection 3 of section 302.171. Unexpended balances in the fund at the end of any fiscal year shall not be transferred to the general revenue fund or any other fund, the provisions of section 33.080 to the contrary notwithstanding.

2. Subject to the availability of funds in the blindness education, screening and treatment program fund, the department **of social services** shall develop a blindness education, screening and treatment program to provide blindness prevention education and to provide screening and treatment for persons who do not have adequate coverage for such services under a health benefit plan.

3. The program shall provide for:

(1) Public education about blindness and other eye conditions;

(2) Screenings and eye examinations to identify conditions that may cause blindness;

(3) Treatment procedures necessary to prevent blindness; and

(4) Any additional costs for vision examinations under section 167.195 that are not covered by existing public **or private** health insurance. Subject to appropriations, moneys from the fund shall be used to pay for those additional costs, provided that the costs do not exceed ninety-nine thousand dollars per year. Payment from the fund for vision examinations under section 167.195 shall not exceed the allowable state Medicaid reimbursement amount for vision examinations.

4. The department may contract for program development with any department-approved nonprofit organization dealing with regional and community blindness education, eye donor and vision treatment services.

5. The department may adopt rules to prescribe eligibility requirements for the program.

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

209.020. DIVISION MAY RECEIVE AND EXPEND DONATIONS AND BEQUESTS. — **[**Said**]** **The family support** division **[**of family services**]** is authorized to receive and use for the purposes herein enumerated, or any of them, donations and bequests, and is authorized to expend such donations and bequests in such manner as it may deem proper within the limitations imposed by the donors thereof.

209.030. BLIND PENSIONS, ELIGIBILITY REQUIREMENTS. — Every adult blind person, eighteen years of age or over, of good moral character who shall have been a resident of the state of Missouri for one year or more next preceding the time of making application for the pension herein provided and every adult blind person eighteen years of age or over who may have lost his or her sight while a bona fide resident of this state and who has been a continuous resident thereof since such loss of sight, shall be entitled to receive, when enrolled under the provisions of sections 209.010 to 209.160, an annual pension as provided for herein, payable in equal monthly installments, provided that no such person shall be entitled to a pension who owns property or has an interest in property to the value of twenty thousand dollars or more, or if married and actually living with husband or wife, if the value of his or her interest in property, together with that of such husband or wife, exceeds said amount; provided, further, that in determining the total value of property owned, the real estate occupied by the blind person or spouse as the home, shall be excluded; or who has a sighted spouse resident in this state who upon the investigation of the **family support** division **[**of family services**]** may be found to be able to provide for the reasonable support of such applicant, or while publicly soliciting alms in any manner or through any artifice in any part of this state; and provided, further, that blind persons who are maintained in private or endowed institutions or who are inmates of a public institution shall not be entitled to the benefits of sections 209.010 to 209.160, except as a patient in a public medical institution; provided, benefits shall not be paid to a blind person under sixty-five years of age, who is a patient in an institution for mental diseases or tuberculosis. In order to comply with federal laws and regulations and state plans in making payments to or on behalf of mentally ill individuals sixty-five years of age, or over, who are patients in a state mental institution, the **family support** division **[**of family services**]** shall require agreements or other arrangements with the institution to provide a framework for cooperation and to assure that state plan requirements and federal laws and regulations relating to such payment will be observed. In the event the federal laws or regulations will not permit approval of the state plan for benefit payments to or on behalf of an individual who is sixty-five years of age, or over, and is a patient in a state institution for mental diseases, this portion of this section shall be inoperative until approval of a state plan is obtained.

209.050. PERSONS REFUSING WORK INELIGIBLE FOR PENSIONS — NAMES MAY BE STRICKEN FROM ROLL. — 1. Sections 209.010 to 209.160 shall not be so construed as to grant the benefits thereof to any blind person between the ages of eighteen and fifty years who has no occupation and who, being both physically and mentally capable of some useful occupation or of receiving vocational or other training, who refuses, for any reason, to engage in such useful occupation or to avail himself or herself of such vocational or other training.

2. The **family support** division **[**of family services**]** may grant its certificate admitting to the pension roll any applicant, otherwise qualified for a pension, who signifies his or her willingness and readiness to enter upon a course of vocational or other training; but in the event any such person fails for more than a reasonable time to enter upon such course of training, without good cause, the **family support** division **[**of family services**]** shall strike the name of such person from the blind pension roll.

209.060. APPLICATION FOR PENSION — PAYMENT BEGINS, WHEN — MISREPRESENTATION, PENALTY. — Any person who desires the benefits of sections 209.010 to 209.160 shall file an application at the **[**county welfare**]** **family support division** office in the county of his **or her** residence, who is satisfied that the applicant comes within the provisions of sections 209.010 to 209.160 shall certify such fact to the **family support** division **[**of family services**]** at its office in Jefferson City, Missouri, which shall consider the merits of such application and if approved by the **family support** division **[**of family services**]** such person shall be placed upon the blind pension rolls. All pensions payable under sections 209.010 to 209.160 shall begin on the date of the filing of the application therefor with the **family support** division **[**of family services**]**. And whenever it shall become known to the **family support** division **[**of family services**]** that any person whose name is on the blind pension roll is no longer qualified to receive a pension, after reasonable notice mailed to such person at his or her last known residence address the name of such person shall be stricken from the blind pension roll; provided further, any person who shall by gifts, secret disposition or other means dispose of any property in his or her possession in order to become wholly or in part within the provisions of sections 209.010 to 209.160 shall be deemed guilty of a misdemeanor.

209.070. DIVISION TO PREPARE SUITABLE BLANK APPLICATION FORMS. — It shall be the duty of the **family support** division **[**of family services**]** to prepare suitable blank application forms for the use of blind persons in making application for pensions, which shall contain such questions for applicant to answer and other matter as the division may deem appropriate to the end to be accomplished. All statements of an applicant contained on such application form shall be verified by the applicant and shall also be supported by the certificates of two disinterested and responsible householders of the county wherein applicant resides, who have known applicant for not less than two years next prior to date of such application, that such statements are true.

209.080. DIVISION TO MAKE REGULATIONS RELATIVE TO EXAMINATION OF APPLICANTS FOR PENSIONS. — It shall be the duty of the **family support** division **[**of family services**]** to make such regulations relative to the examination of applicants for pension, including the examination by an ophthalmologist, a physician skilled in disease of the eye, or an optometrist, designated or approved by the **family support** division **[**of family services**]** to make such examination and of all matters deemed necessary connected with the administration of this chapter. The examining ophthalmologist, a physician skilled in disease of the eye, or optometrist, shall certify in writing, upon forms provided by the **family support** division **[**of family services**]**, the findings of the examination. The examination shall be provided for by the **family support** division **[**of family services**]** without charge to the applicant and shall be paid as an administrative expense. No person shall be entitled to the benefits of this chapter who shall refuse to submit to treatment or operation to effect a cure when recommended by competent

medical authority and approved by the **family support** division **[**of family services**]**, but upon submission to such treatment or operation the pension of applicant otherwise entitled thereto, shall be paid as in other cases: Provided further, that no applicant who is more than seventy-five years of age shall be required to submit to an operation to restore his or her vision in order to come under the provisions of this chapter, but may voluntarily submit to operation.

209.090. DIVISION TO PREPARE ROLL OF PENSIONERS — TO DISTRIBUTE PENSIONS. — Monthly, the **family support** division **[**of family services**]** shall prepare a separate roll of persons entitled to receive blind pension, which roll shall be in triplicate, showing the name, post-office address, amount of pension payable, and such other information as the **family support** division **[**of family services**]** may determine to be necessary. One copy of each roll shall be retained as a record by the **family support** division **[**of family services**]**. The original roll and one copy properly certified by the director, or **[**his**] the director's** authorized agent, shall be delivered to the commissioner of administration, who shall certify the same for payment and prepare one warrant for the total amount payable to the **family support** division **[**of family services**]**, which warrant shall be attached to the copy of the roll and delivered to the state treasurer. The commissioner of administration shall retain the original roll as a record of his **or her** office. The state treasurer upon receiving said roll, warrant, and checks prepared by the **family support** division **[**of family services**]** for each person on said roll, shall sign said checks and deliver same to the **family support** division **[**of family services**]** for delivery to the proper payees.

209.100. DIVISION TO KEEP BLIND PENSION ROLL. — The **family support** division **[**of family services**]** shall place the names of all persons certified by it for a pension under sections 209.010 to 209.160 upon a record to be kept in its office to be known as "The Blind Pension Roll" which shall contain also the residence, post-office address, date upon which the application for pension was filed with the judge of probate division of the circuit court or **family support** division **[**of family services**]**, and the date the certificate was received by the **family support** division **[**of family services**]**; and the name of any person appearing upon the said blind pension roll shall be prima facie evidence of the right of such person to the pension herein provided.

209.110. PERSON AGGRIEVED MAY APPEAL. — Any person claiming the benefits of sections 209.010 to 209.160 who is aggrieved by the action of the **family support** division **[**of family services**]** on the question of such person's vision or as to his or her property or income, residential or moral qualifications to receive the benefits of sections 209.010 to 209.160, may appeal from its decision to the circuit court of his or her judicial circuit within ninety days from the decision complained of, by giving the division notice of such appeal; such appeal shall be had and tried in the circuit court de novo, and the judgment rendered thereupon shall be final; and if such judgment be in favor of appellant a certified copy of same shall be mailed to the **family support** division **[**of family services**]** at its office in Jefferson City.

209.240. AMOUNT OF PENSION — NEED, HOW DETERMINED. — 1. The **family support** division **[**of family services**]** shall, for the purpose of obtaining federal financial participation in aid to the blind payments, prepare a budget taking into consideration the necessary expenses in accordance with standards developed by the **family support** division **[**of family services**]** and the income and resources of the individual claiming aid to the blind. In preparing such budget the **family support** division **[**of family services**]** shall disregard the first eighty-five dollars per month of earned income plus one-half of earned income in excess of eighty-five dollars per month and for a period not in excess of twelve months, such additional amounts of other income and resources, in the case of an individual who has a plan for achieving self-support approved by the **family support** division **[**of family services**]**, as may be necessary for the fulfillment of such plan. Every person passing the vision test and having the other qualifications provided in

this law shall be entitled to receive aid to the blind in the amount of one hundred ten dollars monthly. Any person disqualified to receive aid to the blind may apply for pension to the blind as provided in sections 209.010 to 209.160.

2. If the funds at the disposal or which may be obtained by the **family support** division **[**of family services**]** for the payment of benefits under this section shall at any time become insufficient to pay the full amount of benefits to each person entitled thereto, the amount of benefits of each one of such persons shall be reduced pro rata in proportion to such deficiency in the total amount available or to become available for such purpose.

3. Medical assistance for aid to the blind recipients shall be payable as provided in sections 208.151 to 208.158 without regard to any durational residence requirement for eligibility.

209.251. DEFINITIONS. — As used in sections 209.251 to 209.259, the following terms mean:

(1) "Adaptive telecommunications equipment", equipment that translates, enhances or otherwise transforms the receiving or sending of telecommunications into a form accessible to individuals with disabilities. The term adaptive telecommunications equipment includes adaptive telephone equipment and other types of adaptive devices such as computer input and output adaptions necessary for telecommunications access;

(2) "Basic telecommunications access line", a telecommunications line which provides service from the telephone company central office to the customer's premises which enables the customer to originate and terminate long distance and local telecommunications;

(3) "Commission", the public service commission;

(4) "Consumer support and outreach", services that include, but are not limited to, assisting individuals with disabilities or their families or caregivers in the selection of the most appropriate adaptive telecommunications equipment to meet their needs, providing basic training and technical assistance in the installation and use of adaptive telecommunications equipment, and development and dissemination of information to increase awareness and use of adaptive telecommunications equipment;

(5) "Department", the department of **[**labor and industrial relations**]** **elementary and secondary education**;

(6) "Eligible subscriber", any individual who has been certified as deaf, hearing-impaired, speech-impaired or as having another disability that causes the inability to use telecommunications equipment and services by a licensed physician, audiologist, speech pathologist, hearing instrument specialist or a qualified agency;

(7) "Missouri assistive technology advisory council" or "council", the body which directs the Missouri assistive technology program pursuant to sections **[**191.850 to 191.865**]** **161.900 to 161.945**;

(8) "Program administrator", the entity or entities designated to design the statewide telecommunications equipment distribution program, develop and implement the program policies and procedures, assure delivery of consumer support and outreach and account for and pay all program expenses;

(9) "Surcharge", an additional charge which is to be paid by local exchange telephone company subscribers pursuant to the rate recovery mechanism established pursuant to sections 209.255, 209.257 and 209.259 in order to implement the programs described in sections 209.251 to 209.259;

(10) "Telecommunications", the transmission of any form of information including, but not limited to, voice, graphics, text, dynamic content, and data structures of all types whether they are in electronic, visual, auditory, optical or any other form;

(11) "Telecommunications device for the deaf" or "TDD", a telecommunications device capable of allowing deaf, hearing-impaired or speech-impaired individuals to transmit messages over basic telephone access lines by sending and receiving typed messages.

210.001. DEPARTMENT OF SOCIAL SERVICES TO MEET NEEDS OF HOMELESS, DEPENDENT AND NEGLECTED CHILDREN — ONLY CERTAIN REGIONAL CHILD ASSESSMENT CENTERS FUNDED. — 1. The department of social services shall address the needs of homeless, dependent and neglected children in the supervision and custody of the **children's** division **[**of family services**]** and to their families-in-conflict by:

(1) Serving children and families as a unit in the least restrictive setting available and in close proximity to the family home, consistent with the best interests and special needs of the child;

(2) Insuring that appropriate social services are provided to the family unit both prior to the removal of the child from the home and after family reunification;

(3) Developing and implementing preventive and early intervention social services which have demonstrated the ability to delay or reduce the need for out-of-home placements and ameliorate problems before they become chronic.

2. The department of social services shall fund only regional child assessment centers known as:

(1) The St. Louis City child assessment center;

(2) The St. Louis County child assessment center;

(3) The Jackson County child assessment center;

(4) The Buchanan County child assessment center;

(5) The Greene County child assessment center;

(6) The Boone County child assessment center;

(7) The Joplin child assessment center;

(8) The St. Charles County child assessment center;

(9) The Jefferson County child assessment center;

(10) The Pettis County child assessment center;

(11) The southeast Missouri child assessment center;

(12) The Camden County child assessment center;

(13) The Clay-Platte County child assessment center;

(14) The Lakes Area child assessment center;

(15) The Ozark Foothills child assessment center; and

(16) The North Central Missouri child assessment center; provided the other approved assessment centers included in subdivisions (1) to (14) of this subsection submit to the department of social services a modified funding formula for all approved child assessment centers, which would require no additional state funding.

210.115. REPORTS OF ABUSE, NEGLECT, AND UNDER AGE EIGHTEEN DEATHS — PERSONS REQUIRED TO REPORT — SUPERVISORS AND ADMINISTRATORS NOT TO IMPEDE REPORTING — DEATHS REQUIRED TO BE REPORTED TO THE DIVISION OR CHILD FATALITY REVIEW PANEL, WHEN — REPORT MADE TO ANOTHER STATE, WHEN. — 1. When any physician, medical examiner, coroner, dentist, chiropractor, optometrist, podiatrist, resident, intern, nurse, hospital or clinic personnel that are engaged in the examination, care, treatment or research of persons, and any other health practitioner, psychologist, mental health professional, social worker, day care center worker or other child-care worker, juvenile officer, probation or parole officer, jail or detention center personnel, teacher, principal or other school official, minister as provided by section 352.400, peace officer or law enforcement official, or other person with responsibility for the care of children has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or observes a child being subjected to conditions or circumstances which would reasonably result in abuse or neglect, that person shall immediately report to the division in accordance with the provisions of sections 210.109 to 210.183. No internal investigation shall be initiated until such a report has been made. As used in this section, the term "abuse" is not limited to abuse inflicted by a person responsible for the

child's care, custody and control as specified in section 210.110, but shall also include abuse inflicted by any other person.

2. If two or more members of a medical institution who are required to report jointly have knowledge of a known or suspected instance of child abuse or neglect, a single report may be made by a designated member of that medical team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter immediately make the report. Nothing in this section, however, is meant to preclude any person from reporting abuse or neglect.

3. The reporting requirements under this section are individual, and no supervisor or administrator may impede or inhibit any reporting under this section. No person making a report under this section shall be subject to any sanction, including any adverse employment action, for making such report. Every employer shall ensure that any employee required to report pursuant to subsection 1 of this section has immediate and unrestricted access to communications technology necessary to make an immediate report and is temporarily relieved of other work duties for such time as is required to make any report required under subsection 1 of this section.

4. Notwithstanding any other provision of sections 210.109 to 210.183, any child who does not receive specified medical treatment by reason of the legitimate practice of the religious belief of the child's parents, guardian, or others legally responsible for the child, for that reason alone, shall not be found to be an abused or neglected child, and such parents, guardian or other persons legally responsible for the child shall not be entered into the central registry. However, the division may accept reports concerning such a child and may subsequently investigate or conduct a family assessment as a result of that report. Such an exception shall not limit the administrative or judicial authority of the state to ensure that medical services are provided to the child when the child's health requires it.

5. In addition to those persons and officials required to report actual or suspected abuse or neglect, any other person may report in accordance with sections 210.109 to 210.183 if such person has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or observes a child being subjected to conditions or circumstances which would reasonably result in abuse or neglect.

6. Any person or official required to report pursuant to this section, including employees of the division, who has probable cause to suspect that a child who is or may be under the age of eighteen, who is eligible to receive a certificate of live birth, has died shall report that fact to the appropriate medical examiner or coroner. If, upon review of the circumstances and medical information, the medical examiner or coroner determines that the child died of natural causes while under medical care for an established natural disease, the coroner, medical examiner or physician shall notify the division of the child's death and that the child's attending physician shall be signing the death certificate. In all other cases, the medical examiner or coroner shall accept the report for investigation, shall immediately notify the division of the child's death as required in section 58.452 and shall report the findings to the child fatality review panel established pursuant to section 210.192.

7. Any person or individual required to report may also report the suspicion of abuse or neglect to any law enforcement agency or juvenile office. Such report shall not, however, take the place of reporting to the division.

8. If an individual required to report suspected instances of abuse or neglect pursuant to this section has reason to believe that the victim of such abuse or neglect is a resident of another state or was injured as a result of an act which occurred in another state, the person required to report such abuse or neglect may, in lieu of reporting to the Missouri **children's** division **[**of family services**]**, make such a report to the child protection agency of the other state with the authority to receive such reports pursuant to the laws of such other state. If such agency accepts the report, no report is required to be made, but may be made, to the **children's** division.

210.165. PENALTY FOR VIOLATION. — 1. Any person violating any provision of sections 210.110 to 210.165 is guilty of a class A misdemeanor.

2. Any person who intentionally files a false report of child abuse or neglect shall be guilty of a class A misdemeanor.

3. Every person who has been previously convicted of making a false report to the **children's division or its predecessor agency, the** division of family services**,** and who is subsequently convicted of making a false report under subsection 2 of this section is guilty of a class D felony and shall be punished as provided by law.

4. Evidence of prior convictions of false reporting shall be heard by the court, out of the hearing of the jury, prior to the submission of the case to the jury, and the court shall determine the existence of the prior convictions.

210.166. MEDICAL NEGLECT OF CHILD, WHO MAY BRING ACTION — PROCEDURE. — The **children's** division **[**of family services**]**, any juvenile officer, any physician licensed under chapter 334, any hospital or other health care institution, and any other person or institution authorized by state or federal law to provide medical care may bring an action in the circuit court in the county where any child under eighteen years of age resides or is located, alleging the child is suffering from the denial or deprivation, by those responsible for the care, custody, and control of the child, of medical or surgical treatment or intervention which is necessary to remedy or ameliorate a medical condition which is life-threatening or causes injury. Those responsible for the care, custody and control of the child include, but is not limited to, the parents or guardian of the child, other members of the child's household, or those exercising supervision over a child for any part of a twenty-four-hour day. A petition filed under this section shall be expedited by the court involved in every manner practicable, including, but not limited to, giving such petition priority over all other matters on the court's docket and holding a hearing, at which the parent, guardian or other person having authority to consent to the medical care in question shall, after being notified thereof, be given the opportunity to be heard, and issuing a ruling as expeditiously as necessary when the child's condition is subject to immediate deterioration. Any circuit or associate circuit judge of this state shall have the authority to ensure that medical services are provided to the child when the child's health requires it.

210.167. REPORT TO SCHOOL DISTRICT ON VIOLATIONS OF COMPULSORY SCHOOL ATTENDANCE LAW — REFERRAL BY SCHOOL DISTRICT TO PROSECUTOR, WHEN. — If an investigation conducted by the **children's** division **[**of family services pursuant to**]** **under** section 210.145 reveals that the only basis for action involves a question of an alleged violation of section 167.031, then the local office of the division shall send the report to the school district in which the child resides. The school district shall immediately refer all private, parochial, parish or home school matters to the prosecuting attorney of the county wherein the child legally resides. The school district may refer public school violations of section 167.031 to the prosecuting attorney.

210.192. CHILD FATALITY REVIEW PANEL TO INVESTIGATE DEATHS — QUALIFICATIONS — PROSECUTORS AND CIRCUIT ATTORNEYS TO ORGANIZE — REPORT ON INVESTIGATIONS — IMMUNITY FROM CIVIL LIABILITY — PROGRAM FOR PREVENTION. — 1. The prosecuting attorney or the circuit attorney shall impanel a child fatality review panel for the county or city not within a county in which he or she serves to investigate the deaths of children under the age of eighteen years, who are eligible to receive a certificate of live birth. The panel shall be formed and shall operate according to the rules, guidelines and protocols provided by the department of social services.

2. The panel shall include, but shall not be limited to, the following:

(1) The prosecuting or circuit attorney;

(2) The coroner or medical examiner for the county or city not within a county;

(3) Law enforcement personnel in the county or city not within a county;
(4) A representative from the **children's** division **[**of family services**]**;
(5) A provider of public health care services;
(6) A representative of the juvenile court;
(7) A provider of emergency medical services.

3. The prosecuting or circuit attorney shall organize the panel and shall call the first organizational meeting of the panel. The panel shall elect a chairman who shall convene the panel to meet to review all deaths of children under the age of eighteen years, who are eligible to receive a certificate of live birth, which meet guidelines for review as set forth by the department of social services. In addition, the panel may review at its own discretion any child death reported to it by the medical examiner or coroner, even if it does not meet criteria for review as set forth by the department. The panel shall issue a final report, which shall be a public record, of each investigation to the department of social services, state technical assistance team and to the director of the department of health and senior services. The final report shall include a completed summary report form. The form shall be developed by the director of the department of social services in consultation with the director of the department of health and senior services. The department of health and senior services shall analyze the child fatality review panel reports and periodically prepare epidemiological reports which describe the incidence, causes, location and other factors pertaining to childhood deaths. The department of health and senior services and department of social services shall make recommendations and develop programs to prevent childhood injuries and deaths.

4. The child fatality review panel shall enjoy such official immunity as exists at common law.

210.196. HOSPITALS AND PHYSICIANS, RULES AUTHORIZED FOR PROTOCOL AND IDENTIFYING SUSPICIOUS DEATHS — CHILD DEATH PATHOLOGIST, QUALIFICATION, CERTIFICATION — RULES, PROCEDURE — RECORDS, DISCLOSURE. — 1. The director of the department of health and senior services, in consultation with the director of the department of social services, shall promulgate rules, guidelines and protocols for hospitals and physicians to use to help them to identify suspicious deaths of children under the age of eighteen years, who are eligible to receive a certificate of live birth.

2. The director of the department of health and senior services shall promulgate rules for the certification of child death pathologists and shall develop protocols for such pathologists. A certified child death pathologist shall be a board-certified forensic pathologist or a board-certified pathologist who through special training or experience is deemed qualified in the area of child fatalities by the department of health and senior services.

3. Except as provided in section 630.167, any hospital, physician, medical professional, mental health professional, or department of mental health facility shall disclose upon request all records, medical or social, of any child eligible to receive a certificate of live birth under the age of eighteen who has died to the coroner or medical examiner, **children's** division **[**of family services**]** representative, or public health representative who is a member of the local child fatality review panel established pursuant to section 210.192 to investigate the child's death. Any legally recognized privileged communication, except that between attorney and client, shall not apply to situations involving the death of a child under the age of eighteen years, who is eligible to receive a certificate of live birth.

210.254. RELIGIOUS ORGANIZATION OPERATING FACILITIES EXEMPT UNDER LICENSING LAWS REQUIRED TO FILE PARENTAL NOTICE OF RESPONSIBILITY AND FIRE, SAFETY INSPECTIONS ANNUALLY. — 1. Child-care facilities operated by religious organizations pursuant to the exempt status recognized in subdivision (5) of section 210.211 shall upon enrollment of any child provide the parent or guardian enrolling the child two copies of a notice of parental

responsibility, one copy of which shall be retained in the files of the facility after the enrolling parent acknowledges, by signature, having read and accepted the information contained therein.

2. The notice of parental responsibility shall include the following:

(1) Notification that the child-care facility is exempt as a religious organization from state licensing and therefore not inspected or supervised by the department of health and senior services other than as provided herein and that the facility has been inspected by those designated in section 210.252 and is complying with the fire, health and sanitation requirements of sections 210.252 to 210.257;

(2) The names, addresses and telephone numbers of agencies and authorities which inspect the facility for fire, health and safety and the date of the most recent inspection by each;

(3) The staff/child ratios for enrolled children under two years of age, for children ages two to four and for those five years of age and older as required by the department of health and senior services regulations in licensed facilities, the standard ratio of staff to number of children for each age level maintained in the exempt facility, and the total number of children to be enrolled by the facility;

(4) Notification that background checks have been conducted on each individual caregiver and all other personnel at the facility. The background check shall be conducted upon employment and every two years thereafter on each individual caregiver and all other personnel at the facility. Such background check shall include a screening for child abuse or neglect through the **children's** division **[**of family services**]**, and a criminal record review through the Missouri highway patrol pursuant to section 43.540. The fee for the criminal record review shall be limited to the actual costs incurred by the Missouri highway patrol in conducting such review not to exceed ten dollars;

(5) The disciplinary philosophy and policies of the child-care facility; and

(6) The educational philosophy and policies of the child-care facility.

3. A copy of notice of parental responsibility, signed by the principal operating officer of the exempt child-care facility and the individual primarily responsible for the religious organization conducting the child-care facility and copies of the annual fire and safety inspections shall be filed annually during the month of August with the director of the department of health and senior services. Exempt child-care facilities which begin operation after August 28, 1993, shall file such notice at least five days prior to starting to operate.

210.481. Definitions. — As used in sections 210.481 to 210.536, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Child", any individual under eighteen years of age or in the custody of the division;

(2) "Child placing agency", any person, other than the parents, who places a child outside the home of the child's parents or guardian, or advertises or holds himself forth as performing such services, but excluding the attorney, physician, or clergyman of the parents;

(3) "Division", the **children's** division **[**of family services**]** of the department of social services of the state of Missouri;

(4) "Foster home", a private residence of one or more family members providing twenty-four-hour care to one or more but less than seven children who are unattended by parent or guardian and who are unrelated to either foster parent by blood, marriage, or adoption;

(5) "Guardian", the person designated by a court of competent jurisdiction as the "guardian of the person of a minor" or "guardian of the person and conservator of the estate of a minor";

(6) "License", the document issued by the division in accordance with the applicable provisions of sections 210.481 to 210.536 to a foster home, residential care facility, or child placing agency which authorizes the foster home, residential care facility, or child placing agency to operate its program in accordance with the applicable provisions of sections 210.481 to 210.536 and rules issued pursuant thereto;

(7) "Person", any individual, firm, corporation, partnership, association, agency, or an incorporated or unincorporated organization, regardless of the name used;

(8) "Provisional license", the document issued by the division in accordance with the applicable provisions of sections 210.481 to 210.536 to a foster home, residential care facility, or child placing agency which is not currently meeting requirements for full licensure;

(9) "Related", any of the following by blood, marriage, or adoption: Parent, grandparent, brother, sister, half-brother, half-sister, stepparent, stepbrother, stepsister, uncle, aunt, or first cousin;

(10) "Residential care facility", a facility providing twenty-four-hour care in a group setting to children who are unrelated to the person operating the facility and who are unattended by a parent or guardian.

210.536. COST OF FOSTER CARE, HOW PAID — FAILURE OF PARENT TO PAY REQUIRED AMOUNT, COURT ORDERS AGAINST ASSETS, COLLECTION PROCEDURE. — 1. The cost of foster care shall be paid by the **children's** division **[**of family services pursuant to**]** **under** chapter 207, except that the court shall evaluate the ability of parents to pay part or all of the cost for such care, and shall order such payment to the department of social services.

2. The court may effectuate such order against any asset of the parent for failure to provide part or all of the cost of foster care according to the court order; provided further, that any assignment, attachment, garnishment, or lien against such assets shall be served upon the person in possession of the assets or shall be recorded in the office of the recorder of deeds in the county in which the parent resides or in which the asset is located. The department of social services may contract on a contingency fee basis with private attorneys for the collection and enforcement of orders against such assets. Any such third party payment shall be paid directly to the department of social services.

210.537. COUNTY FOSTER PARENT ASSOCIATIONS MAY BE ESTABLISHED, DUTIES OF DIVISION. — The **children's** division **[**of family services**]** shall cooperate with and shall help promote foster parent associations in each county. The **children's** division **[**of family services**]** shall provide county foster parent associations with data, information and guidelines on the obligations, responsibilities and opportunities of foster parenting and shall keep the associations and members apprised of changes in laws and regulations relevant to foster parenting.

210.543. SPECIALIZED FOSTER PARENTS, TRAINING, FISCAL INCENTIVES. — The **children's** division **[**of family services**]** shall train and license a separate category of foster parents who are able to provide special care and supervision to foster children who have special needs because of a history of sexual abuse, serious physical abuse, or severe chronic neglect. The training received by such specialized foster parents shall be in addition to the training required in section 210.540. Fiscal incentives for training and/or longevity may be provided by the division, subject to appropriation. The division shall place foster children with such specialized foster parents subject to available funds.

210.545. RESPITE CARE FACILITIES FOR FOSTER FAMILIES — RULES AND REGULATIONS — PROCEDURE. — 1. The **children's** division **[**of family services**]** shall establish reasonably accessible respite care facilities which may be utilized by foster parents licensed by the division. Such licensed foster parents shall be permitted to leave agency foster children in the respite care facilities for periods of time determined jointly by the foster parent and the division and subject to available funds.

2. Such respite care facilities may be licensed day care centers or residential treatment centers who have contracted with the division to provide such services. Licensed foster homes may also be designated as respite care facilities.

3. The **children's** division **[**of family services**]** shall promulgate rules and regulations necessary to implement the provisions of this section. No rule or portion of a rule promulgated

under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

210.551. GRIEVANCE PROCEDURE FOR DECISIONS OF DIVISION TO BE DEVELOPED WITH COOPERATION OF FOSTER PARENTS GROUP. — The **children's** division **[**of family services**]** shall, by January 1, 1988, develop a procedure by which foster parents may appeal adverse decisions affecting their rights made by the division. Such procedure shall be mutually agreed upon by the division and an organization of foster parents with whom they shall consult.

210.560. MONEY HELD BY OTHERS FOR BENEFIT OF A CHILD, DEFINITIONS, LIABILITY TO THE STATE FOR FUNDS EXPENDED FOR CHILD, WHEN — MONEY HELD BY DIVISION FOR A CHILD, ACCOUNTING, DEPOSIT OF FUNDS, ANNUAL STATEMENT, DISPOSAL OF FUNDS — ESCHEAT, WHEN. — 1. As used in this section, the following terms shall mean:

(1) "Child", any child placed in the legal custody of the division under chapter 211;

(2) "Division", the **children's** division **[**of family services**]** of the department of social services of the state of Missouri;

(3) "Money", any legal tender, note, draft, certificate of deposit, stocks, bond or check;

(4) "Vested right", a legal right that is more than a mere expectancy and may be reduced to a present monetary value.

2. The child, the child's parents, any fiduciary or any representative payee holding or receiving money that are vested rights solely for or on behalf of a child are jointly and severally liable for funds expended by the division to or on behalf of the child. The liability of any person, except a parent of the child, shall be limited to the money received in his **or her** fiduciary or representative capacity. The Missouri state government shall not require a trustee or a financial institution acting as a trustee to exercise any discretionary powers in the operation of a trust.

3. The division may accept an appointment to serve as representative payee or fiduciary, or in a similar capacity for payments to a child under any public or private benefit arrangement. Money so received shall be governed by this section to the extent that laws and regulations governing payment of such benefits provide otherwise.

4. Any money received by the division on behalf of a child shall be accounted for in the name of the child. Any money in the account of a child may be expended by the division for care or services for the child. The division shall by rule adopted under chapter 536 establish procedures for the accounting of the money and the protection of the money against theft, loss or misappropriation.

5. The division shall deposit money with a financial institution. Any earnings attributable to the money in the account of a child shall be credited to that child's account. The division shall receive bids from banking corporations, associations or trust companies which desire to be selected as depositories of children's moneys for the division.

6. The division may accept funds which a parent, guardian or other person wishes to provide for the use or benefit of the child. The use and deposit of such funds shall be governed by this section and any additional directions given by the provider of the funds.

7. Each child for whose benefit funds have been received by the division and the guardian ad litem of such child shall be furnished annually with a statement listing all transactions involving the funds which have been deposited on the child's behalf, to include each receipt and disbursement.

8. The division shall use all proper diligence to dispose of the balance of money accumulated in the child's account when the child is released from the care and custody of the division or the child dies. When the child is deceased the balance shall be disposed of as provided by law for descent and distribution. If, after the division has diligently used such methods and means as considered reasonable to refund such funds, there shall remain any money, the owner of which is unknown to the division, or if known, cannot be located by the division, in each and every such instance such money shall escheat and vest in the state of

Missouri, and the director and officials of the division shall pay the same to the state director of the department of revenue, taking a receipt therefor, who shall deposit the money in the state treasury to be credited to a fund to be designated as "escheat".

9. Within five years after money has been paid into the state treasury, any person who appears and claims the money may file a petition in the circuit court of Cole County, Missouri, stating the nature of the claim and praying that such money be paid to him. A copy of the petition shall be served upon the director of the department of revenue who shall file an answer to the same. The court shall proceed to examine the claim and the allegations and proof, and if it finds that such person is entitled to any money so paid into the state treasury, it shall order the commissioner of administration to issue a warrant on the state treasurer for the amount of such claim, but without interest or costs. A certified copy of the order shall be sufficient voucher for issuing a warrant; provided, that either party may appeal from the decision of the court in the same manner as provided by law in other civil actions.

10. All moneys paid into the state treasury under the provisions of this section after remaining there unclaimed for five years shall escheat and vest absolutely in the state and be credited to the state treasury, and all persons shall be forever barred and precluded from setting up title or claim to any such funds.

11. Nothing in this section shall be deemed to apply to funds regularly due the state of Missouri for the support and maintenance of children in the care and custody of the division or collected by the state of Missouri as reimbursement for state funds expended on behalf of the child.

210.720. COURT-ORDERED CUSTODY — WRITTEN REPORT OF STATUS REQUIRED FOR COURT REVIEW, WHEN — PERMANENCY HEARING WHEN, PURPOSE. — 1. In the case of a child who has been placed in the custody of the **children's** division **[**of family services**]** in accordance with subdivision (17) of subsection 1 of section 207.020 or another authorized agency by a court or who has been placed in foster care by a court, every six months after the placement, the foster family, group home, agency, or child care institution with which the child is placed shall file with the court a written report on the status of the child. The court shall review the report and shall hold a permanency hearing within twelve months of initial placement and at least annually thereafter. The permanency hearing shall be for the purpose of determining in accordance with the best interests of the child a permanent plan for the placement of the child, including whether or not the child should be continued in foster care or whether the child should be returned to a parent, guardian or relative, or whether or not proceedings should be instituted by either the juvenile officer or the division to terminate parental rights and legally free such child for adoption.

2. In such permanency hearings the court shall consider all relevant factors including:

(1) The interaction and interrelationship of the child with the child's foster parents, parents, siblings, and any other person who may significantly affect the child's best interests;

(2) The child's adjustment to his or her foster home, school and community;

(3) The mental and physical health of all individuals involved, including any history of abuse of any individuals involved. If the child is in the care of an authorized agency based on an allegation that the child has abused another child and the court determines that such abuse occurred, the court shall not return the child to or permit the child to reside in any residence located within one thousand feet of the residence of the abused child, or any child care facility or school that the abused child attends, until the abused child reaches eighteen years of age. The prohibitions of this subsection shall not apply where the alleged abuse occurred between siblings; and

(4) The needs of the child for a continuing relationship with the child's parents and the ability and willingness of parents to actively perform their functions as mother and father for the needs of the child.

3. The judge shall make written findings of fact and conclusions of law in any order pertaining to the placement of the child.

210.829. JURISDICTION, VENUE, SEVERANCE — EFFECT OF FAILURE TO JOIN ACTION FOR NECESSARIES. — 1. The circuit court has jurisdiction of an action brought under sections 210.817 to 210.852. The action may be joined by separate document with an action for dissolution of marriage, annulment, separate maintenance, support, custody or visitation, except that in any action instituted at the request of the **family support** division **[**of child support enforcement**]** by a prosecuting or circuit attorney or attorney under contract with such division, if an action for dissolution, annulment, separate maintenance, custody or visitation is joined hereunder, it shall be severed upon request. Failure to join an action for reimbursement of necessaries provided with an action brought under sections 210.817 to 210.852 shall not be a bar to subsequently bringing such an action for reimbursement of necessaries provided.

2. A person who has sexual intercourse in this state thereby submits to the jurisdiction of the courts of this state to an action brought under sections 210.817 to 210.852 with respect to a child who may have been conceived by that act of intercourse. In addition to any other method provided by rule or statute, including sections 506.160 and 506.510, personal jurisdiction may be acquired by personal service of summons outside this state or by certified mail with proof of actual receipt.

3. Notwithstanding subsection 2 of this section, personal jurisdiction may be asserted over any person if there is any basis consistent with the constitution of this state or the United States.

4. An action brought under sections 210.817 to 210.852 may be brought in the county in which the child resides, the mother resides, or the alleged father resides or is found or, if the father is deceased, in which proceedings for probate of his **or her** estate have been or could be commenced.

210.830. PARTIES — GUARDIAN AD LITEM, WHEN APPOINTED. — The child shall be made a party to any action commenced under sections 210.817 to 210.852. If he **or she** is a minor, he **or she** may be represented by a next friend appointed for him **or her** for any such action. The child's mother or father or the **family support** division **[**of child support enforcement**]** or any person having physical or legal custody of the child may represent him **or her** as his **or her** next friend. A guardian ad litem shall be appointed for the child only if child abuse or neglect is alleged, or if the child is named as a defendant, or if the court determines that the interests of the child and his **or her** next friend are in conflict. The natural mother, each man presumed to be the father under section 210.822, and each man alleged to be the natural father, shall be made parties or, if not subject to the jurisdiction of the court, shall be given notice of the action in a manner prescribed by the court and an opportunity to be heard. The court may align the parties.

210.834. BLOOD TESTS — EXPERT DEFINED. — 1. The court may, and upon request of any party shall require the child, mother, alleged father, any presumed father who is a party to the action, and any male witness who testifies or shall testify about his sexual relations with the mother at the possible time of conception, to submit to blood tests. The tests shall be performed by an expert as defined in subsection 7 of this section.

2. The court, upon reasonable request by a party, may order that independent tests be performed by other experts as defined in this section.

3. If any party refuses to submit to blood tests ordered by the court pursuant to subsection 1 or 2 of this section, such refusal shall constitute civil contempt of court and shall be admissible as evidence in the action. In addition, upon motion and reasonable notice to the party refusing to submit to blood tests, the court shall, except for good cause shown, enter an order striking the party's pleadings and rendering a judgment by default on the issue of the existence of the parent-and-child relationship.

4. Whenever the court finds that the results of the blood tests show that a person presumed or alleged to be the father of the child is not the father of such child, such evidence shall be conclusive of nonpaternity and the court shall dismiss the action as to that party, and the cost of such blood tests shall be assessed against the party instituting the action unless the **family support** division **[**of child support enforcement**]**, through a prosecuting attorney or circuit attorney or other attorney under contract with such division, is a party to such action, in which case the cost of such blood tests shall be assessed against the state. The court shall order the state to pay reasonable attorney's fees for counsel and the costs of any blood tests where such blood tests show that the person presumed or alleged to be the father of the child is not the father of such child and the state proceeds further in an action pursuant to sections 210.817 to 210.852 to attempt to establish that such person is the father of the child.

5. Certified documentation of the chain of custody of the blood or tissue specimens is competent evidence to establish such chain of custody. An expert's report shall be admitted at trial as evidence of the test results stated therein without the need for foundation testimony or other proof of authenticity or accuracy, unless a written motion containing specific factual allegations challenging the testing procedures, the chain of custody of the blood or tissue specimens, or the results has been filed and served on each party, and the motion is sustained by the court or an administrative agency not less than thirty days before the trial.

6. The provisions of subsection 5 of this section shall also apply when the blood tests were not ordered by the court, if the court finds that the tests were conducted by an expert as defined in subsection 7 of this section.

7. As used in sections 210.817 to 210.852, the term "expert" shall include, but not be limited to, a person who performs or analyzes a genetic test of a type generally acknowledged as reliable by accreditation bodies designated by the secretary of the Department of Health and Human Services pursuant to 42 U.S.C. 666(a) and performed by a laboratory approved by such accreditation bodies.

210.843. ENFORCEMENT OF JUDGMENT OR ORDER — PAYMENTS TO BE MADE TO CIRCUIT CLERK OR FAMILY SUPPORT PAYMENT CENTER — FAILURE TO COMPLY, CIVIL CONTEMPT. — 1. If the existence of a parent and child relationship is declared, and a duty of support has been established pursuant to sections 210.817 to 210.852, the support obligation may be enforced in the same or in other appropriate proceedings by the mother, the child, the **family support** division **[**of child support enforcement**]**, or any other public agency that has furnished or may furnish the reasonable expenses of pregnancy, confinement, education, support, or funeral, or by any other person, including a private agency, to the extent he or she has furnished or is furnishing these expenses.

2. The court shall order that support payments be made to the clerk of the circuit court as trustee for remittance to the person entitled to receive the payments, or where that person has assigned his or her support rights to the **family support** division **[**of family services pursuant to**] under** section 208.040 as trustee for remittance to the division, as long as the trusteeship remains in effect. Effective October 1, 1999, the court shall order support payments to be made to the family support payment center as required in section 454.530 as trustee for remittance to the person entitled to receive the payments.

3. Willful failure to obey any judgment or order of the court entered pursuant to this section is a civil contempt of court. Section 452.350 applies to support orders entered pursuant to this section, and all administrative and judicial remedies for the enforcements of judgments shall apply.

210.846. HEARINGS AND RECORDS, CONFIDENTIALITY — INSPECTION ALLOWED, WHEN. — Notwithstanding any other law concerning public hearings and records, any hearing or trial held under sections 210.817 to 210.852 shall be held in closed court without admittance of any person other than those necessary to the action or proceeding. All papers and records,

other than the interlocutory or final judgment, pertaining to the action or proceeding, whether part of the permanent record of the court, are subject to inspection only by the prosecuting or circuit attorney or attorney under contract with the **family support** division **[**of child support enforcement**]** or upon the consent of the court and all interested persons, or in exceptional cases only upon order of the court for good cause shown.

210.870. JUVENILE INFORMATION GOVERNANCE COMMISSION CREATED, MEMBERS, DUTIES, MEETINGS, ANNUAL REPORT. — 1. There is hereby established the "Juvenile Information Governance Commission".

2. The commission shall be composed of the following members:

(1) The director of the department of mental health;

(2) The director of the department of health and senior services;

(3) The commissioner of education;

(4) The director of the department of social services;

(5) The director of the **children's** division **[**of family services**]** of the department of social services;

(6) The director of the division of youth services of the department of social services;

(7) The state courts administrator;

(8) The superintendent of the highway patrol;

(9) The chief information officer of the office of information technology of the office of administration;

(10) One judge who hears juvenile cases in a circuit comprised of one county of the first classification, appointed by the chief justice of the supreme court;

(11) One judge who hears juvenile cases in a circuit comprised of more than one county, appointed by the chief justice of the supreme court;

(12) One juvenile officer representing a circuit comprised of one county of the first classification, appointed by the chief justice of the supreme court;

(13) One juvenile officer representing a circuit comprised of more than one county, appointed by the chief justice of the supreme court.

3. The commission shall authorize categories of information to be shared between executive agencies and juvenile and family divisions of the circuit courts pursuant to section 210.865. The commission shall provide vision, strategy, policy approval and oversight for development and implementation of agency, law enforcement and juvenile and family court information sharing. The commission may appoint subcommittees to address technical and policy issues associated with information sharing, communication, development and implementation.

4. The state courts administrator or a designee shall chair the commission.

5. The commission shall meet as determined by the chair but not less than semiannually. A majority of the members of the commission shall constitute a quorum.

6. No member of the commission shall receive compensation for the performance of duties associated with membership on the commission.

7. Official minutes of all commission meetings shall be prepared by the chair, distributed to the members and filed by the state courts administrator.

8. The commission shall, on January 1, 2002, and annually thereafter on January first of each succeeding year, transmit a report summarizing the commission's findings to the general assembly.

210.900. DEFINITIONS. — 1. Sections 210.900 to 210.936 shall be known and may be cited as the "Family Care Safety Act".

2. As used in sections 210.900 to 210.936, the following terms shall mean:

(1) "Child-care provider", any licensed or license-exempt child-care home, any licensed or license-exempt child-care center, child-placing agency, residential care facility for children, group home, foster family group home, foster family home, employment agency that refers a child-care

worker to parents or guardians as defined in section 289.005. The term "child-care provider" does not include summer camps or voluntary associations designed primarily for recreational or educational purposes;

(2) "Child-care worker", any person who is employed by a child-care provider, or receives state or federal funds, either by direct payment, reimbursement or voucher payment, as remuneration for child-care services;

(3) "Department", the department of health and senior services;

(4) "Elder-care provider", any operator licensed pursuant to chapter 198 or any person, corporation, or association who provides in-home services under contract with the **[**division of aging**]** **department of social services or its divisions**, or any employer of nurses or nursing assistants of home health agencies licensed pursuant to sections 197.400 to 197.477, or any nursing assistants employed by a hospice pursuant to sections 197.250 to 197.280, or that portion of a hospital for which subdivision (3) of subsection 1 of section 198.012 applies;

(5) "Elder-care worker", any person who is employed by an elder-care provider, or who receives state or federal funds, either by direct payment, reimbursement or voucher payment, as remuneration for elder-care services;

(6) "Employer", any child-care provider, elder-care provider, or personal-care provider as defined in this section;

(7) "Mental health provider", any developmental disability facility or group home as defined in section 633.005;

(8) "Mental health worker", any person employed by a mental health provider to provide personal care services and supports;

(9) "Patrol", the Missouri state highway patrol;

(10) "Personal-care attendant" or "personal-care worker", a person who performs routine services or supports necessary for a person with a physical or mental disability to enter and maintain employment or to live independently;

(11) "Personal-care provider", any person, corporation, or association who provides personal-care services or supports under contract with the department of mental health**[**, the division of aging, the department of health and senior services or the department of elementary and secondary education**]** **or the department of social services or its divisions**;

(12) "Related child care", child care provided only to a child or children by such child's or children's grandparents, great-grandparents, aunts or uncles, or siblings living in a residence separate from the child or children;

(13) "Related elder care", care provided only to an elder by an adult child, a spouse, a grandchild, a great-grandchild or a sibling of such elder.

210.950. SAFE PLACE FOR NEWBORNS ACT — DEFINITIONS — PROCEDURE — IMMUNITY FROM LIABILITY. — 1. This section shall be known and may be cited as the "Safe Place for Newborns Act of 2002". The purpose of this section is to protect newborn children from injury and death caused by abandonment by a parent, and to provide safe and secure alternatives to such abandonment.

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

(1) "Hospital", as defined in section 197.020;

(2) "Maternity home", the same meaning as such term is defined in section 135.600;

(3) "Nonrelinquishing parent", the biological parent who does not leave a newborn infant with any person listed in subsection 3 of this section in accordance with this section;

(4) "Pregnancy resource center", the same meaning as such term is defined in section 135.630;

(5) "Relinquishing parent", the biological parent or person acting on such parent's behalf who leaves a newborn infant with any person listed in subsection 3 of this section in accordance with this section.

3. A parent shall not be prosecuted for a violation of section 568.030, 568.032, 568.045 or 568.050 for actions related to the voluntary relinquishment of a child up to forty-five days old pursuant to this section if:

(1) Expressing intent not to return for the child, the parent voluntarily delivered the child safely to the physical custody of any of the following persons:

(a) An employee, agent, or member of the staff of any hospital, maternity home, or pregnancy resource center in a health care provider position or on duty in a nonmedical paid or volunteer position;

(b) A firefighter or emergency medical technician on duty in a paid position or on duty in a volunteer position; or

(c) A law enforcement officer;

(2) The child was no more than forty-five days old when delivered by the parent to any person listed in subdivision (1) of this subsection; and

(3) The child has not been abused or neglected by the parent prior to such voluntary delivery.

4. A parent voluntarily relinquishing a child under this section shall not be required to provide any identifying information about the child or the parent. No person shall induce or coerce, or attempt to induce or coerce, a parent into revealing his or her identity. No officer, employee, or agent of this state or any political subdivision of this state shall attempt to locate or determine the identity of such parent. In addition, any person who obtains information on the relinquishing parent shall not disclose such information except to the following:

(1) A birth parent who has waived anonymity or the child's adoptive parent;

(2) The staff of the department of health and senior services, the department of social services, or any county health or social services agency or licensed child welfare agency that provides services to the child;

(3) A person performing juvenile court intake or dispositional services;

(4) The attending physician;

(5) The child's foster parent or any other person who has physical custody of the child;

(6) A juvenile court or other court of competent jurisdiction conducting proceedings relating to the child;

(7) The attorney representing the interests of the public in proceedings relating to the child; and

(8) The attorney representing the interests of the child.

5. A person listed in subdivision (1) of subsection 3 of this section shall, without a court order, take physical custody of a child the person reasonably believes to be no more than forty-five days old and is delivered in accordance with this section by a person purporting to be the child's parent. If delivery of a newborn is made pursuant to this section in any place other than a hospital, the person taking physical custody of the child shall arrange for the immediate transportation of the child to the nearest hospital licensed pursuant to chapter 197.

6. The hospital, its employees, agents and medical staff shall perform treatment in accordance with the prevailing standard of care as necessary to protect the physical health or safety of the child. The hospital shall notify the **children's** division **[**of family services**]** and the local juvenile officer upon receipt of a child pursuant to this section. The local juvenile officer shall immediately begin protective custody proceedings and request the child be made a ward of the court during the child's stay in the medical facility. Upon discharge of the child from the medical facility and pursuant to a protective custody order ordering custody of the child to the division, the children's division shall take physical custody of the child. The parent's voluntary delivery of the child in accordance with this section shall constitute the parent's implied consent to any such act and a voluntary relinquishment of such parent's parental rights.

7. In any termination of parental rights proceeding initiated after the relinquishment of a child pursuant to this section, the juvenile officer shall make public notice that a child has been relinquished, including the sex of the child, and the date and location of such relinquishment.

Within thirty days of such public notice, the parent wishing to establish parental rights shall identify himself or herself to the court and state his or her intentions regarding the child. The court shall initiate proceedings to establish paternity, or if no person identifies himself as the father within thirty days, maternity. The juvenile officer shall make examination of the putative father registry established in section 192.016 to determine whether attempts have previously been made to preserve parental rights to the child. If such attempts have been made, the juvenile officer shall make reasonable efforts to provide notice of the abandonment of the child to such putative father.

8. (1) If a relinquishing parent of a child relinquishes custody of the child to any person listed in subsection 3 of this section in accordance with this section and to preserve the parental rights of the nonrelinquishing parent, the nonrelinquishing parent shall take such steps necessary to establish parentage within thirty days after the public notice or specific notice provided in subsection 7 of this section.

(2) If either parent fails to take steps to establish parentage within the thirty-day period specified in subdivision (1) of this subsection, either parent may have all of his or her rights terminated with respect to the child.

(3) When either parent inquires at a hospital regarding a child whose custody was relinquished pursuant to this section, such facility shall refer such parent to the children's division and the juvenile court exercising jurisdiction over the child.

9. The persons listed in subdivision (1) of subsection 3 of this section shall be immune from civil, criminal, and administrative liability for accepting physical custody of a child pursuant to this section if such persons accept custody in good faith. Such immunity shall not extend to any acts or omissions, including negligent or intentional acts or omissions, occurring after the acceptance of such child.

10. The children's division shall:

(1) Provide information and answer questions about the process established by this section on the statewide, toll-free telephone number maintained pursuant to section 210.145;

(2) Provide information to the public by way of pamphlets, brochures, or by other ways to deliver information about the process established by this section.

11. It shall be an affirmative defense to prosecution for a violation of sections 568.030, 568.032, 568.045, and 568.050 that a parent who is a defendant voluntarily relinquished a child no more than one year old under this section.

12. Nothing in this section shall be construed as conflicting with section 210.125.

211.081. PRELIMINARY INQUIRY AS TO INSTITUTION OF PROCEEDINGS — APPROVAL OF DIVISION NECESSARY FOR PLACEMENT OUTSIDE STATE — INSTITUTIONAL PLACEMENTS, FINDINGS REQUIRED, DUTIES OF DIVISION, LIMITATIONS ON JUDGE, FINANCIAL LIMITATIONS. — 1. Whenever any person informs the court in person and in writing that a child appears to be within the purview of applicable provisions of section 211.031 or that a person seventeen years of age appears to be within the purview of the provisions of subdivision (1) of subsection 1 of section 211.031, the court shall make or cause to be made a preliminary inquiry to determine the facts and to determine whether or not the interests of the public or of the child or person seventeen years of age require that further action be taken. On the basis of this inquiry, the juvenile court may make such informal adjustment as is practicable without a petition or may authorize the filing of a petition by the juvenile officer. Any other provision of this chapter to the contrary notwithstanding, the juvenile court shall not make any order for disposition of a child or person seventeen years of age which would place or commit the child or person seventeen years of age to any location outside the state of Missouri without first receiving the approval of the **children's** division **[**of family services**]**.

2. Placement in any institutional setting shall represent the least restrictive appropriate placement for the child or person seventeen years of age and shall be recommended based upon a psychological or psychiatric evaluation or both. Prior to entering any order for disposition of

a child or person seventeen years of age which would order residential treatment or other services inside the state of Missouri, the juvenile court shall enter findings which include the recommendation of the psychological or psychiatric evaluation or both; and certification from the division director or designee as to whether a provider or funds or both are available, including a projection of their future availability. If the **children's** division **[**of family services**]** indicates that funding is not available, the division shall recommend and make available for placement by the court an alternative placement for the child or person seventeen years of age. The division shall have the burden of demonstrating that they have exercised due diligence in utilizing all available services to carry out the recommendation of the evaluation team and serve the best interest of the child or person seventeen years of age. The judge shall not order placement or an alternative placement with a specific provider but may reasonably designate the scope and type of the services which shall be provided by the department to the child or person seventeen years of age.

3. Obligations of the state incurred under the provisions of section 211.181 shall not exceed, in any fiscal year, the amount appropriated for this purpose.

211.180. FAMILY PRESERVATION SCREENINGS, CONDUCTED WHEN, RESULTS. — Family preservation screenings shall be conducted by the **children's** division **[**of family services**]** within seventy-two hours of the removal of a child from the home and placement in the custody of the court. The results of this screening shall be submitted to the juvenile court judge for consideration in the order of disposition or treatment of the child.

211.183. ORDER TO INCLUDE DETERMINATION OF EFFORTS OF DIVISION — DEFINITION OF REASONABLE EFFORTS BY DIVISION — MODIFICATION OF THE PERMANENCY PLAN, WHEN — REASONABLE EFFORTS NOT REQUIRED, WHEN — PERMANENCY HEARING, WHEN. — 1. In juvenile court proceedings regarding the removal of a child from his or her home, the court's order shall include a determination of whether the **children's** division **[**of family services**]** has made reasonable efforts to prevent or eliminate the need for removal of the child and, after removal, to make it possible for the child to return home. If the first contact with the family occurred during an emergency in which the child could not safely remain at home even with reasonable in-home services, the division shall be deemed to have made reasonable efforts to prevent or eliminate the need for removal.

2. "Reasonable efforts" means the exercise of reasonable diligence and care by the division to utilize all available services related to meeting the needs of the juvenile and the family. In determining reasonable efforts to be made and in making such reasonable efforts, the child's present and ongoing health and safety shall be the paramount consideration.

3. In support of its determination of whether reasonable efforts have been made, the court shall enter findings, including a brief description of what preventive or reunification efforts were made and why further efforts could or could not have prevented or shortened the separation of the family. The division shall have the burden of demonstrating reasonable efforts.

4. The juvenile court may authorize the removal of the child even if the preventive and reunification efforts of the division have not been reasonable, but further efforts could not permit the child to remain at home.

5. Before a child may be removed from the parent, guardian, or custodian of the child by order of a juvenile court, excluding commitments to the division of youth services, the court shall in its orders:

(1) State whether removal of the child is necessary to protect the child and the reasons therefor;

(2) Describe the services available to the family before removal of the child, including in-home services;

(3) Describe the efforts made to provide those services relevant to the needs of the family before the removal of the child;

(4) State why efforts made to provide family services described did not prevent removal of the child; and

(5) State whether efforts made to prevent removal of the child were reasonable, based upon the needs of the family and child.

6. If continuation of reasonable efforts, as described in this section, is determined by the division to be inconsistent with establishing a permanent placement for the child, the division shall take such steps as are deemed necessary by the division, including seeking modification of any court order to modify the permanency plan for the child.

7. The division shall not be required to make reasonable efforts, as defined in this section, but has the discretion to make reasonable efforts if a court of competent jurisdiction has determined that:

(1) The parent has subjected the child to a severe act or recurrent acts of physical, emotional or sexual abuse toward the child, including an act of incest; or

(2) The parent has:

(a) Committed murder of another child of the parent;

(b) Committed voluntary manslaughter of another child of the parent;

(c) Aided or abetted, attempted, conspired or solicited to commit such a murder or voluntary manslaughter; or

(d) Committed a felony assault that resulted in serious bodily injury to the child or to another child of the parent; or

(3) The parent's parental rights to a sibling have been involuntarily terminated.

8. If the court determines that reasonable efforts, as described in this section, are not required to be made by the division, the court shall hold a permanency hearing within thirty days after the court has made such determination. The division shall complete whatever steps are necessary to finalize the permanent placement of the child.

9. The division may concurrently engage in reasonable efforts, as described in this section, while engaging in such other measures as are deemed appropriate by the division to establish a permanent placement for the child.

211.455. PROCEDURE AFTER FILING OF PETITION — DETERMINATION OF SERVICE — EXTENSION OF TIME FOR SERVICE, WHEN — INVESTIGATION. — 1. Within thirty days after the filing of the petition, the juvenile officer shall meet with the court in order to determine that all parties have been served with summons and to request that the court order the investigation and social study.

2. If, at that time, all parties required to be served with summons have not been served, the court, in its discretion, may extend the time for service if the court finds that service may be forthcoming and that the best interests of the child would be served thereby.

3. The court shall order an investigation and social study except in cases filed under section 211.444. The investigation and social study shall be made by the juvenile officer, the state **children's** division **[**of family services**]** or a public or private agency authorized or licensed to care for children or any other competent person, as directed by the court, and a written report shall be made to the court to aid the court in determining whether the termination is in the best interests of the child. It shall include such matters as the parental background, the fitness and capacity of the parent to discharge parental responsibilities, the child's home, present adjustment, physical, emotional and mental condition, and such other facts as are pertinent to the determination. Parties and attorneys or guardians ad litem or volunteer advocates representing them before the court shall have access to the written report. All ordered evaluations and reports shall be made available to the parties and attorneys or guardians ad litem or volunteer advocates representing them before the court at least fifteen days prior to any dispositional hearing.

211.477. ORDER OF TERMINATION, WHEN ISSUED — TRANSFER OF LEGAL CUSTODY, TO WHOM — ALTERNATIVES TO TERMINATION — POWER OF COURT — GRANTING OR

DENIAL OF PETITION DEEMED FINAL JUDGMENT. — 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 **children's** 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.

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.

6. The granting or denial of a petition for termination of parental rights shall be deemed a final judgment for purposes of appeal.

217.575. SALES OF GOODS OR SERVICES TO STATE OR POLITICAL SUBDIVISIONS — PROMOTION — PRICE — CERTIFICATION OF NONAVAILABILITY REQUIRED FOR STATE PURCHASES, WHEN. — 1. All goods manufactured, services provided or produce of the vocational enterprises program of the state shall, upon the requisition of the proper official, be furnished to the state, to any public institution owned, managed or controlled by the state, or to any private entity that is leasing space to any agency of the state government for use in space leased to the state agency, at such prices as shall be determined as provided in subsection 4 of this section.

2. No goods or services so manufactured, provided or produced shall be purchased from any other source for the state or public institutions of the state unless the department shall certify the goods or services included in the requisition cannot be furnished or supplied by the vocational enterprises program within ninety days, or, in the event the same goods or services cannot be procured on the open market within ninety days, that the vocational enterprises program cannot supply them within a reasonable time. No claims for the payment of such goods or services shall be audited or paid without this certificate. One copy each of the requisition or certificate shall be retained by the department.

3. The division of purchasing and the division of **facilities management,** design and construction shall cooperate with the department in seeking to promote for use by state agencies and in state-owned or -occupied facilities the products manufactured and services provided by the vocational enterprises program.

4. The vocational enterprises program shall fix and determine the prices at which goods and produce so manufactured and produced and services so provided shall be furnished, and the prices shall be uniform to all. The cost shall not be fixed at more than the market price for like goods and services.

5. Any differences between the vocational enterprises program and the state, its departments, divisions, agencies, institutions, or the political subdivisions of the state as to style, design, price or quality of goods shall be submitted to arbitrators whose decision shall be final. One of the arbitrators shall be named by the program, one by the office, department, political subdivision or institution concerned, and one by agreement of the other two. The arbitrators shall receive no compensation; however, their necessary expenses shall be paid by the office, department, political subdivision or institution against which the award is given, or, in the event of a compromise decision, by both parties, the amount to be paid by each party in portions to be determined by the arbitrators.

6. The vocational enterprises program may sell office systems and furniture to any department, agency, or institution of the state or any political subdivision of the state either through outright purchase or through payment plan agreement, including handling charges, over a specified number of months contingent on the solvency of the working capital revolving fund. Prior approval shall be required by the division of **facilities management,** design and construction for state agencies in situations where the office of administration controlled state-owned office space is involved and space in which a lease contract executed by the office of administration is in effect.

226.008. RESPONSIBILITIES AND AUTHORITY OF HIGHWAYS AND TRANSPORTATION COMMISSION — TRANSFER OF AUTHORITY TO DEPARTMENT OF TRANSPORTATION. — 1. The highways and transportation commission shall have responsibility and authority, as provided in this section and sections 104.805, 389.005, 389.610, and 621.040, for the administration and enforcement of:

(1) Licensing, supervising and regulating motor carriers for the transportation of passengers, household goods and other property by motor vehicles within this state;

(2) Licensing motor carriers to transport hazardous waste, used oil, infectious waste and permitting waste tire haulers in intrastate or interstate commerce, or both, by motor vehicles within this state;

(3) Compliance by motor carriers and motor private carriers with applicable requirements relating to safety and hazardous materials transportation, within the terminals of motor carriers and motor private carriers of passengers or property;

(4) Compliance by motor carriers and motor private carriers with applicable requirements relating to safety and hazardous materials transportation wherever they possess, transport or deliver hazardous waste, used oil, infectious waste or waste tires. This authority is in addition to, and not exclusive of, the authority of the department of natural resources to ensure compliance with any and all applicable requirements related to the transportation of hazardous waste, used oil, infectious waste or waste tires;

(5) Collecting and regulating amounts payable to the state from interstate motor carriers in accordance with the provisions of the International Fuel Tax Agreement in accordance with section 142.617, and any successor or similar agreements, including the authority to impose and collect motor fuel taxes due pursuant to chapter 142, and such agreement;

(6) Registering and regulating interstate commercial motor vehicles operated upon the highways of this state, in accordance with the provisions of the International Registration Plan

in accordance with sections 301.271 through 301.277, and any successor or similar agreements, including the authority to issue license plates in accordance with sections 301.130 and 301.041;

(7) Permitting the transportation of over dimension or overweight motor vehicles or loads that exceed the maximum weights or dimensions otherwise allowed upon the public highways within the jurisdiction of the highways and transportation commission; and

(8) Licensing intrastate housemovers.

2. The highways and transportation commission shall carry out all powers, duties and functions relating to intrastate and interstate transportation previously performed by:

(1) The division of motor carrier and railroad safety within the department of economic development, and all officers or employees of that division;

(2) The department of natural resources, and all officers or employees of that division, relating to the issuance of licenses or permits to transport hazardous waste, used oil, infectious waste or waste tires by motor vehicles operating within the state;

(3) The highway reciprocity commission within the department of revenue, and all officers or employees of that commission; and the director of revenue's powers, duties and functions relating to the highway reciprocity commission, except that the highways and transportation commission may allow the department of revenue to enforce the provisions of the International Fuel Tax Agreement, as required by such agreement; and

(4) The motor carrier services unit within the traffic functional unit of the department of transportation, relating to the special permitting of operations on state highways of motor vehicles or loads that exceed the maximum length, width, height or weight limits established by law or by the highways and transportation commission.

3. All the powers, duties and functions described in subsections 1 and 2 of this section, including but not limited to, all powers, duties and functions pursuant to chapters 387, 390 and 622, including all rules and orders, are hereby transferred to the department of transportation, which is in the charge of the highways and transportation commission, by type I transfer, as defined in the Omnibus State Reorganization Act of 1974, and the preceding agencies and officers shall no longer be responsible for those powers, duties and functions.

4. All the powers, duties and functions, including all rules and orders, of the administrative law judges of the division of motor carrier and railroad safety, as amended by the provisions of this section and sections 104.805, 389.005, 389.610, and 621.040, are hereby transferred to the administrative hearing commission within the state office of administration.

5. The division of motor carrier and railroad safety and the highway reciprocity commission are abolished.

6. Personnel previously employed by the division of motor carrier and railroad safety and the highway reciprocity commission shall be transferred to the department of transportation, but the department of natural resources shall not be required to transfer any personnel pursuant to this section. The administrative law judge within the division of motor carrier and railroad safety shall be transferred to the administrative hearing commission.

7. Credentials issued by the transferring agencies or officials before July 11, 2002, shall remain in force or expire as provided by law. In addition, the highways and transportation commission shall have the authority to suspend, cancel or revoke such credentials after July 11, 2002.

8. Notwithstanding any provision of law to the contrary, on and after July 11, 2002, all surety bonds, cash bonds, certificates of deposit, letters of credit, drafts, checks or other financial instruments payable to:

(1) The highway reciprocity commission or the department of revenue pursuant to section 301.041 or pursuant to the International Fuel Tax Agreement; or

(2) Any other agency or official whose powers, duties or functions are transferred pursuant to this section, shall be payable instead to the state highways and transportation commission.

9. The department of natural resources shall have authority to collect and establish by rule the amount of the fee paid by applicants for a permit to transport waste tires.

10. The Missouri hazardous waste management commission created in section 260.365 shall have the authority to collect and establish by rule the amount of the fee paid by applicants for a license to transport hazardous waste, used oil, or infectious waste pursuant to section 260.395.

11. All of the authority, powers, duties, and functions of the division of highway safety relating to the motorcycle safety program under sections 302.133 to 302.138, the driver improvement program authorized under section 302.178, the ignition interlock program under sections 577.600 to 577.614, and other state highway safety programs as provided by state law, including all administrative rules promulgated thereunder, are hereby transferred to the department of transportation, which is in charge of the state highways and transportation commission, by type I transfer as set forth in the Omnibus State Reorganization Act of 1974.

226.805. INTERSTATE AGENCY COMMITTEE ON SPECIAL TRANSPORTATION CREATED — MEMBERS — POWERS AND DUTIES. — 1. There is hereby created the "Interagency Committee on Special Transportation" within the Missouri department of transportation. The members of the committee shall be: The assistant for transportation of the Missouri department of transportation, or his **or her** designee; the assistant commissioner of the department of elementary and secondary education, responsible for special transportation, or his **or her** designee; the director of the **[**division of aging of the**]** department of **[**social**] health and senior** services, or **[**his**] the director's** designee; the director of the **children's** division **[**of family services**]** of the department of social services, or **[**his**] the director's** designee; the deputy director for mental retardation/developmental disabilities and the deputy director for administration of the department of mental health, or their designees; the executive secretary of the governor's committee on the employment of the handicapped; and other state agency representatives as the governor deems appropriate for temporary or permanent membership by executive order.

2. The interagency committee on special transportation shall:

(1) Jointly designate substate special transportation planning and service areas within the state;

(2) Jointly designate a special transportation planning council for each special transportation planning and service area. The special transportation planning council shall be composed of the area agency on aging, the regional center for developmental disabilities, the regional planning commission and other local organizations responsible for funding and organizing special transportation designated by the interagency committee. The special transportation planning councils will oversee and approve the preparation of special transportation plans. Staff support for the special transportation planning councils will be provided by the regional planning commissions serving the area with funds provided by the department of transportation for this purpose;

(3) Jointly establish a uniform planning format and content;

(4) Individually and jointly establish uniform budgeting and reporting standards for all transportation funds administered by the member agencies. These standards shall be adopted into the administrative rules of each member agency;

(5) Individually establish annual allocations of funds to support special transportation services in each of the designated planning and service areas;

(6) Individually and jointly adopt a five-year planning budget for the capital and operating needs of special transportation in Missouri;

(7) Individually develop administrative and adopt rules for the substate division of special transportation funds;

(8) Jointly review and accept annual capital and operating plans for the designated special transportation planning and service areas;

(9) Individually submit proposed expenditures to the interagency committee for review as to conformity with the areas special transportation plans. All expenditures are to be made in accordance with the plans or by special action of the interagency committee.

3. The assistant for transportation of the Missouri department of transportation shall serve as chairman of the committee.

4. Staff for the committee shall be provided by the Missouri department of transportation.

5. The committee shall meet on such a schedule and carry out its duties in such a way as to discharge its responsibilities over special transportation expenditures made for the state fiscal year beginning July 1, 1989, and all subsequent years.

251.100. OFFICE OF DEPARTMENT TO BE IN JEFFERSON CITY. — The division of **[**planning**]** **facilities management, design** and construction shall furnish office space for the department, the headquarters of which department shall be located in Jefferson City, Missouri.

251.240. STATE OFFICE IN JEFFERSON CITY. — The division of **facilities management,** design and construction shall furnish office space for the state office; the headquarters office shall be located in Jefferson City, Missouri.

253.320. CONDITIONS REQUIRED IN LEASES — EFFECT OF ENCUMBRANCES OF LESSEE. — Any lease granted under the provisions of sections 253.290 to 253.320 shall be conditioned as follows and also contain such provisions as the attorney general may prescribe:

(1) The director of the department of natural resources shall retain the right to enter upon the lands at all times;

(2) The director shall control the style of architecture used in construction on the lands, and the quality of materials used in said construction shall be approved by the director of the division of **facilities management,** design and construction for the state of Missouri, and may control all fees and prices charged to the public as may be required by the director;

(3) The director shall inspect and audit the books and records of the lessee at least once every two years;

(4) The lessee shall provide such care, maintenance, repair, conservation and improvement of the lands and shall render such services to the public as may be required by the director;

(5) The lessee shall keep true and accurate records of his **or her** receipts and disbursements arising out of the operation of facilities upon the leased lands and shall permit the director to inspect and audit them at all reasonable times;

(6) Nothing in sections 253.290 to 253.320 shall be construed as denying the lessees the right to execute mortgages and other evidences of interest in or indebtedness upon their leasehold interest or properties thereon for the purpose of installing, enlarging or improving plant and equipment and extending facilities for the accommodation of the public within said state park; provided, however, that no such mortgage or other encumbrance shall be valid unless authorized and approved by the written order of the director; and further provided that the period for payment of such mortgage or indebtedness shall not extend beyond the lease period, and that no obligation or indebtedness shall incur to the state.

261.010. DEPARTMENT AUTHORIZED — DIRECTOR, HOW APPOINTED, QUALIFICATIONS. — There is created a "Department of Agriculture", the main office of which shall be in Jefferson City in quarters provided by the division of **facilities management,** design and construction. The governor, by and with the advice and consent of the senate, shall appoint a director of the department of agriculture who shall be a practical farmer, well versed in agricultural science and who shall serve at the pleasure of the governor. The director shall be in charge of the department of agriculture.

285.300. WITHHOLDING FORM, COMPLETION REQUIRED — FORWARDING TO STATE AGENCIES — STATE DIRECTORY OF NEW HIRES, CROSS-CHECK OF UNEMPLOYMENT COMPENSATION RECIPIENTS — COMPLIANCE BY EMPLOYERS WITH EMPLOYEES IN TWO OR MORE STATES. — 1. Every employer doing business in the state shall require each newly hired employee to fill out a federal W-4 withholding form. A copy of each withholding form or an equivalent form containing data required by section 285.304 which may be provided in an electronic or magnetic format shall be sent to the department of revenue by the employer within twenty days after the date the employer hires the employee or in the case of an employer transmitting a report magnetically or electronically, by two monthly transmissions, if necessary, not less than twelve days nor more than sixteen days apart. For purposes of this section, the date the employer hires the employee shall be the earlier of the date the employee signs the W-4 form or its equivalent, or the first date the employee reports to work, or performs labor or services. Such forms shall be forwarded by the department of revenue to the **family support** division **[**of child support enforcement**]** on a weekly basis and the information shall be entered into the database, to be known as the "State Directory of New Hires". The information reported shall be provided to the National Directory of New Hires established in 42 U.S.C. section 653, other state agencies or contractors of the division as required or allowed by federal statutes or regulations. The division of employment security shall cross-check Missouri unemployment compensation recipients against any federal new hire database or any other database containing Missouri or other states' wage information which is maintained by the federal government on a weekly basis. The division of employment security shall cross-check unemployment compensation applicants and recipients with Social Security Administration data maintained by the federal government at least weekly. Effective January 1, 2007, the division of employment security shall cross-check at least monthly unemployment compensation applicants and recipients with department of revenue drivers license databases.

2. Any employer that has employees who are employed in two or more states and transmits reports magnetically or electronically may comply with subsection 1 of this section by:

(1) Designating one of the states in which the employer has employees as the designated state that such employer shall transmit the reports; and

(2) Notifying the secretary of Health and Human Services of such designation.

288.220. ADMINISTRATION OF LAW — DIRECTOR — STATE UNEMPLOYMENT INSURANCE OPERATION — RULES AND REGULATIONS. — 1. Subject to the supervision of the director of the department of labor and industrial relations, the division of employment security of the department of labor and industrial relations shall be under the control, management and supervision of a director who shall be appointed by the governor, by and with the advice and consent of the senate. The director shall serve at the pleasure of the governor.

2. The division shall be responsible for administering the Missouri state **[**employment service operation, the**]** unemployment insurance operation and any other operations as are necessary to administer the state's employment security law.

3. The central office of the division shall be maintained in the City of Jefferson.

4. Subject to the supervision and approval of the director of the department of labor and industrial relations, it shall be the duty of the director to administer this law; and **[**he**] the director** shall have power and authority to adopt, amend, or rescind any regulations as **[**he**] the director** deems necessary to the efficient internal management of the division. The director shall determine the division's organization and methods of procedure. Subject to the provisions of the state merit system law, chapter 36, the director shall employ and prescribe the duties and powers of the persons as may be necessary. The director shall collaborate with the personnel director and the personnel advisory board in establishing for employees of the division salaries comparable to the salaries paid by other states of a similar size and volume of operations to employees engaged in the administration of the employment security programs of those states. The director may delegate to any such person the power and authority as **[**he**] the director** deems reasonable

and proper for the effective administration of the law, and may in **[**his**]** **the director's** discretion bond any person handling moneys or signing checks. Further, the director shall have the power to make expenditures, require reports, make investigations and take other action not inconsistent with this law as he **or she** considers necessary to the efficient and proper administration of the law.

5. Subject to the approval of the director of the department of labor and industrial relations and the commission, the director shall adopt, amend or rescind the rules and regulations as are necessary to implement any of the provisions of this law not relating to the internal management of the division; however, the rules and regulations shall not become effective until ten days after their approval by the commission and copies thereof have been filed in the office of the secretary of state.

301.020. APPLICATION FOR REGISTRATION OF MOTOR VEHICLES, CONTENTS — CERTAIN VEHICLES, SPECIAL PROVISIONS — PENALTY FOR FAILURE TO COMPLY — OPTIONAL BLINDNESS ASSISTANCE DONATION — DONATION TO ORGAN DONOR PROGRAM PERMITTED. — 1. Every owner of a motor vehicle or trailer, which shall be operated or driven upon the highways of this state, except as herein otherwise expressly provided, shall annually file, by mail or otherwise, in the office of the director of revenue, an application for registration on a blank to be furnished by the director of revenue for that purpose containing:

(1) A brief description of the motor vehicle or trailer to be registered, including the name of the manufacturer, the vehicle identification number, the amount of motive power of the motor vehicle, stated in figures of horsepower and whether the motor vehicle is to be registered as a motor vehicle primarily for business use as defined in section 301.010;

(2) The name, the applicant's identification number and address of the owner of such motor vehicle or trailer;

(3) The gross weight of the vehicle and the desired load in pounds if the vehicle is a commercial motor vehicle or trailer.

2. If the vehicle is a motor vehicle primarily for business use as defined in section 301.010 and if such vehicle is five years of age or less, the director of revenue shall retain the odometer information provided in the vehicle inspection report, and provide for prompt access to such information, together with the vehicle identification number for the motor vehicle to which such information pertains, for a period of five years after the receipt of such information. This section shall not apply unless:

(1) The application for the vehicle's certificate of ownership was submitted after July 1, 1989; and

(2) The certificate was issued pursuant to a manufacturer's statement of origin.

3. If the vehicle is any motor vehicle other than a motor vehicle primarily for business use, a recreational motor vehicle, motorcycle, motortricycle, bus or any commercial motor vehicle licensed for over twelve thousand pounds and if such motor vehicle is five years of age or less, the director of revenue shall retain the odometer information provided in the vehicle inspection report, and provide for prompt access to such information, together with the vehicle identification number for the motor vehicle to which such information pertains, for a period of five years after the receipt of such information. This subsection shall not apply unless:

(1) The application for the vehicle's certificate of ownership was submitted after July 1, 1990; and

(2) The certificate was issued pursuant to a manufacturer's statement of origin.

4. If the vehicle qualifies as a reconstructed motor vehicle, motor change vehicle, specially constructed motor vehicle, non-USA-std motor vehicle, as defined in section 301.010, or prior salvage as referenced in section 301.573, the owner or lienholder shall surrender the certificate of ownership. The owner shall make an application for a new certificate of ownership, pay the required title fee, and obtain the vehicle examination certificate required pursuant to subsection 9 of section 301.190. If an insurance company pays a claim on a salvage vehicle as defined in

section 301.010 and the owner retains the vehicle, as prior salvage, the vehicle shall only be required to meet the examination requirements under **[**and pursuant to**]** subsection 10 of section 301.190. Notarized bills of sale along with a copy of the front and back of the certificate of ownership for all major component parts installed on the vehicle and invoices for all essential parts which are not defined as major component parts shall accompany the application for a new certificate of ownership. If the vehicle is a specially constructed motor vehicle, as defined in section 301.010, two pictures of the vehicle shall be submitted with the application. If the vehicle is a kit vehicle, the applicant shall submit the invoice and the manufacturer's statement of origin on the kit. If the vehicle requires the issuance of a special number by the director of revenue or a replacement vehicle identification number, the applicant shall submit the required application and application fee. All applications required under this subsection shall be submitted with any applicable taxes which may be due on the purchase of the vehicle or parts. The director of revenue shall appropriately designate "Reconstructed Motor Vehicle", "Motor Change Vehicle", "Non-USA-Std Motor Vehicle", or "Specially Constructed Motor Vehicle" on the current and all subsequent issues of the certificate of ownership of such vehicle.

5. Every insurance company that pays a claim for repair of a motor vehicle which as the result of such repairs becomes a reconstructed motor vehicle as defined in section 301.010 or that pays a claim on a salvage vehicle as defined in section 301.010 and the owner is retaining the vehicle shall in writing notify the owner of the vehicle, and in a first party claim, the lienholder if a lien is in effect, that he is required to surrender the certificate of ownership, and the documents and fees required pursuant to subsection 4 of this section to obtain a prior salvage motor vehicle certificate of ownership or documents and fees as otherwise required by law to obtain a salvage certificate of ownership, from the director of revenue. The insurance company shall within thirty days of the payment of such claims report to the director of revenue the name and address of such owner, the year, make, model, vehicle identification number, and license plate number of the vehicle, and the date of loss and payment.

6. Anyone who fails to comply with the requirements of this section shall be guilty of a class B misdemeanor.

7. An applicant for registration may make a donation of one dollar to promote a blindness education, screening and treatment program. The director of revenue shall collect the donations and deposit all such donations in the state treasury to the credit of the blindness education, screening and treatment program fund established in section **[**192.935**]** **209.015**. Moneys in the blindness education, screening and treatment program fund shall be used solely for the purposes established in section **[**192.935,**]** **209.015;** except that the department of revenue shall retain no more than one percent for its administrative costs. The donation prescribed in this subsection is voluntary and may be refused by the applicant for registration at the time of issuance or renewal. The director shall inquire of each applicant at the time the applicant presents the completed application to the director whether the applicant is interested in making the one dollar donation prescribed in this subsection.

8. An applicant for registration may make a donation of one dollar to promote an organ donor program. The director of revenue shall collect the donations and deposit all such donations in the state treasury to the credit of the organ donor program fund as established in sections 194.297 to 194.304. Moneys in the organ donor fund shall be used solely for the purposes established in sections 194.297 to 194.304, except that the department of revenue shall retain no more than one percent for its administrative costs. The donation prescribed in this subsection is voluntary and may be refused by the applicant for registration at the time of issuance or renewal. The director shall inquire of each applicant at the time the applicant presents the completed application to the director whether the applicant is interested in making the one dollar donation prescribed in this subsection.

302.133. DEFINITIONS. — As used in sections 302.133 to 302.138, the following terms mean:

(1) **"Commission", the state highways and transportation commission;**

(2) "Department", the department of **[**public safety**]** **transportation**;

[(2)**]** **(3)** "Director", the director of the department of **[**public safety**]** **transportation**;

[(3)**]** **(4)** "Instructor", a licensed motorcycle operator who meets the standards established by the **[**department**]** **commission** to teach the motorcycle rider training course;

[(4)**]** **(5)** "Motorcycle", a motorcycle or motortricycle as those terms are defined by section 301.010;

[(5)**]** **(6)** "Motorcycle rider training course", a motorcycle rider education curriculum and delivery system approved by the **[**department**]** **commission** as meeting standards designed to develop and instill the knowledge, attitudes, habits, and skills necessary for the safe operation of a motorcycle.

302.134. MOTORCYCLE SAFETY EDUCATION PROGRAM, COMMISSION TO ESTABLISH AND SET STANDARDS, PROGRAM TO INCLUDE CERTAIN SUBJECTS — AUTHORITY TO ADOPT RULES, PROCEDURE TO ADOPT, SUSPEND AND REVOKE. — 1. The **[**department**]** **commission** shall establish standards for and shall administer the motorcycle safety education program. The program shall include, but is not limited to, motorcycle rider training and instructor training courses. The **[**department**]** **commission** may expand the program to include components relating to the effect of alcohol and drugs on motorcycle operation, public awareness of motorcycles on the highways, driver improvement for motorcyclists, motorcycle operator licensing improvement, program promotion, and other motorcycle safety efforts.

2. Standards adopted by the **[**department**]** **commission** for the motorcycle safety education program, including standards for instructor qualification and standards for the motorcycle rider training and instructor training courses, shall, at a minimum, comply with the applicable standards of the Motorcycle Safety Foundation.

3. The **[**department**]** **commission** shall promulgate rules and regulations necessary to administer the provisions of sections 302.133 to 302.138.

4. No rule or portion of a rule promulgated under the authority of this chapter shall become effective until it has been approved by the joint committee on administrative rules in accordance with the procedures provided in this section, and the delegation of the legislative authority to enact law by the adoption of such rules is dependent upon the power of the joint committee on administrative rules to review and suspend rules pending ratification by the senate and the house of representatives as provided in this section.

5. Upon filing any proposed rule with the secretary of state, the **[**department**]** **commission** shall concurrently submit such proposed rule to the committee, which may hold hearings upon any proposed rule or portion thereof at any time.

6. A final order of rulemaking shall not be filed with the secretary of state until thirty days after such final order of rulemaking has been received by the committee. The committee may hold one or more hearings upon such final order of rulemaking during the thirty-day period. If the committee does not disapprove such order of rulemaking within the thirty-day period, the **[**department**]** **commission** may file such order of rulemaking with the secretary of state and the order of rulemaking shall be deemed approved.

7. The committee may, by majority vote of the members, suspend the order of rulemaking or portion thereof by action taken prior to the filing of the final order of rulemaking only for one or more of the following grounds:

(1) An absence of statutory authority for the proposed rule;

(2) An emergency relating to public health, safety or welfare;

(3) The proposed rule is in conflict with state law;

(4) A substantial change in circumstance since enactment of the law upon which the proposed rule is based.

8. If the committee disapproves any rule or portion thereof, the **[**department**]** **commission** shall not file such disapproved portion of any rule with the secretary of state and the secretary

of state shall not publish in the Missouri Register any final order of rulemaking containing the disapproved portion.

9. If the committee disapproves any rule or portion thereof, the committee shall report its findings to the senate and the house of representatives. No rule or portion thereof disapproved by the committee shall take effect so long as the senate and the house of representatives ratify the act of the joint committee by resolution adopted in each house within thirty legislative days after such rule or portion thereof has been disapproved by the joint committee.

10. Upon adoption of a rule as provided in this section, any such rule or portion thereof may be suspended or revoked by the general assembly either by bill or, pursuant to section 8, article IV of the Constitution of Missouri, by concurrent resolution upon recommendation of the joint committee on administrative rules. The committee shall be authorized to hold hearings and make recommendations pursuant to the provisions of section 536.037. The secretary of state shall publish in the Missouri Register, as soon as practicable, notice of the suspension or revocation.

302.135. PRIVATE OR PUBLIC INSTITUTIONS MAY ALSO CONDUCT MOTORCYCLE TRAINING COURSES, TUITION FEE MAY BE CHARGED — CERTIFICATE TO BE ISSUED — STICKER ON DRIVER'S LICENSE AS EVIDENCE OF COMPLETED COURSE. — 1. The **[**department**]** **commission** may enter into contracts with public or private institutions or organizations for technical assistance in conducting motorcycle rider training courses and instructor training courses if they are administered and taught in accordance with standards established by the **[**department**]** **commission**.

2. The department or a contracting institution or organization conducting a course may charge a reasonable tuition fee as determined by the **[**director**]** **commission**.

3. The **[**department**]** **director** shall issue certificates of completion in the manner and form prescribed by the **[**director**]** **commission** to persons who satisfactorily complete the requirements of the state-approved course. Completion of the course shall be indicated upon the person's driver's license. A sticker or other evidence of completion shall be issued for the license until the license is subsequently renewed.

302.137. MOTORCYCLE SAFETY TRUST FUND ESTABLISHED, PURPOSE — OPERATORS OF MOTORCYCLES OR MOTORTRICYCLES IN VIOLATION OF LAWS OR ORDINANCES TO BE ASSESSED SURCHARGE, COLLECTION, DISTRIBUTION. — 1. There is hereby created in the state treasury for use by the **[**department of public safety**]** **commission** a fund to be known as the "Motorcycle Safety Trust Fund". All judgments collected pursuant to this section, appropriations of the general assembly, federal grants, private donations and any other moneys designated for the motorcycle safety education program established pursuant to sections 302.133 to 302.138 shall be deposited in the fund. Moneys deposited in the fund shall, upon appropriation by the general assembly to the **[**department of public safety**]**, be received and expended by the **[**department**]** **commission** of public safety for the purpose of funding the motorcycle safety education program established under sections 302.133 to 302.138. Notwithstanding the provisions of section 33.080 to the contrary, any unexpended balance in the motorcycle safety trust fund at the end of any biennium shall not be transferred to the general revenue fund.

2. In all criminal cases, including violations of any county ordinance or any violation of criminal or traffic laws of this state, including an infraction, there shall be assessed as costs a surcharge in the amount of one dollar. No such surcharge shall be collected in any proceeding involving a violation of an ordinance or state law when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the state, county or municipality.

3. Such surcharge shall be collected and distributed by the clerk of the court as provided in sections 488.010 to 488.020. The surcharge collected pursuant to this section shall be paid to the state treasury to the credit of the motorcycle safety trust fund established in this section.

302.171. APPLICATION FOR LICENSE — FORM — CONTENT — EDUCATIONAL MATERIALS TO BE PROVIDED TO APPLICANTS UNDER TWENTY-ONE — VOLUNTARY CONTRIBUTION TO ORGAN DONATION PROGRAM — INFORMATION TO BE INCLUDED IN REGISTRY — VOLUNTARY CONTRIBUTION TO BLINDNESS ASSISTANCE — EXEMPTION FROM REQUIREMENT TO PROVIDE PROOF OF RESIDENCY — ONE-YEAR RENEWAL, REQUIREMENTS. — 1. The director shall verify that an applicant for a driver's license is a Missouri resident or national of the United States or a noncitizen with a lawful immigration status, and a Missouri resident before accepting the application. The director shall not issue a driver's license for a period that exceeds the duration of an applicant's lawful immigration status in the United States. The director may establish procedures to verify the Missouri residency or United States naturalization or lawful immigration status and Missouri residency of the applicant and establish the duration of any driver's license issued under this section. An application for a license shall be made upon an approved form furnished by the director. Every application shall state the full name, Social Security number, age, height, weight, color of eyes, sex, residence, mailing address of the applicant, and the classification for which the applicant has been licensed, and, if so, when and by what state, and whether or not such license has ever been suspended, revoked, or disqualified, and, if revoked, suspended or disqualified, the date and reason for such suspension, revocation or disqualification and whether the applicant is making a one dollar donation to promote an organ donation program as prescribed in subsection 2 of this section. A driver's license, nondriver's license, or instruction permit issued under this chapter shall contain the applicant's legal name as it appears on a birth certificate or as legally changed through marriage or court order. No name change by common usage based on common law shall be permitted. The application shall also contain such information as the director may require to enable the director to determine the applicant's qualification for driving a motor vehicle; and shall state whether or not the applicant has been convicted in this or any other state for violating the laws of this or any other state or any ordinance of any municipality, relating to driving without a license, careless driving, or driving while intoxicated, or failing to stop after an accident and disclosing the applicant's identity, or driving a motor vehicle without the owner's consent. The application shall contain a certification by the applicant as to the truth of the facts stated therein. Every person who applies for a license to operate a motor vehicle who is less than twenty-one years of age shall be provided with educational materials relating to the hazards of driving while intoxicated, including information on penalties imposed by law for violation of the intoxication-related offenses of the state. Beginning January 1, 2001, if the applicant is less than eighteen years of age, the applicant must comply with all requirements for the issuance of an intermediate driver's license pursuant to section 302.178. For persons mobilized and deployed with the United States Armed Forces, an application under this subsection shall be considered satisfactory by the department of revenue if it is signed by a person who holds general power of attorney executed by the person deployed, provided the applicant meets all other requirements set by the director.

2. An applicant for a license may make a donation of one dollar to promote an organ donor program. The director of revenue shall collect the donations and deposit all such donations in the state treasury to the credit of the organ donor program fund established in sections 194.297 to 194.304. Moneys in the organ donor program fund shall be used solely for the purposes established in sections 194.297 to 194.304 except that the department of revenue shall retain no more than one percent for its administrative costs. The donation prescribed in this subsection is voluntary and may be refused by the applicant for the license at the time of issuance or renewal of the license. The director shall make available an informational booklet or other informational sources on the importance of organ and tissue donations to applicants for licensure as designed by the organ donation advisory committee established in sections 194.297 to 194.304. The director shall inquire of each applicant at the time the licensee presents the completed application to the director whether the applicant is interested in making the one dollar donation prescribed in this subsection and whether the applicant is interested in inclusion in the

organ donor registry and shall also specifically inform the licensee of the ability to consent to organ donation by completing the form on the reverse of the license that the applicant will receive in the manner prescribed by subdivision (1) of subsection 1 of section 194.225. A symbol shall be placed on the front of the document indicating the applicant's desire to be listed in the registry. The director shall notify the department of health and senior services of information obtained from applicants who indicate to the director that they are interested in registry participation, and the department of health and senior services shall enter the complete name, address, date of birth, race, gender and a unique personal identifier in the registry established in subsection 1 of section 194.304.

3. An applicant for a license may make a donation of one dollar to promote a blindness education, screening and treatment program. The director of revenue shall collect the donations and deposit all such donations in the state treasury to the credit of the blindness education, screening and treatment program fund established in section **[**192.935**]** **209.015**. Moneys in the blindness education, screening and treatment program fund shall be used solely for the purposes established in section **[**192.935**]** **209.015;** except that the department of revenue shall retain no more than one percent for its administrative costs. The donation prescribed in this subsection is voluntary and may be refused by the applicant for the license at the time of issuance or renewal of the license. The director shall inquire of each applicant at the time the licensee presents the completed application to the director whether the applicant is interested in making the one dollar donation prescribed in this subsection.

4. Beginning July 1, 2005, the director shall deny the driving privilege of any person who commits fraud or deception during the examination process or who makes application for an instruction permit, driver's license, or nondriver's license which contains or is substantiated with false or fraudulent information or documentation, or who knowingly conceals a material fact or otherwise commits a fraud in any such application. The period of denial shall be one year from the effective date of the denial notice sent by the director. The denial shall become effective ten days after the date the denial notice is mailed to the person. The notice shall be mailed to the person at the last known address shown on the person's driving record. The notice shall be deemed received three days after mailing unless returned by the postal authorities. No such individual shall reapply for a driver's examination, instruction permit, driver's license, or nondriver's license until the period of denial is completed. No individual who is denied the driving privilege under this section shall be eligible for a limited driving privilege issued under section 302.309.

5. All appeals of denials under this section shall be made as required by section 302.311.

6. The period of limitation for criminal prosecution under this section shall be extended under subdivision (1) of subsection 3 of section 556.036.

7. The director may promulgate rules and regulations necessary to administer and enforce this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536.

8. Notwithstanding any provision of this chapter that requires an applicant to provide proof of Missouri residency for renewal of a noncommercial driver's license, noncommercial instruction permit, or nondriver's license, an applicant who is sixty-five years and older and who was previously issued a Missouri noncommercial driver's license, noncommercial instruction permit, or Missouri nondriver's license is exempt from showing proof of Missouri residency.

9. Notwithstanding any provision of this chapter, for the renewal of a noncommercial driver's license, noncommercial instruction permit, or nondriver's license, a photocopy of an applicant's United States birth certificate along with another form of identification approved by the department of revenue, including, but not limited to, United States military identification or United States military discharge papers, shall constitute sufficient proof of Missouri citizenship.

10. Notwithstanding any other provision of this chapter, if an applicant does not meet the requirements of subsection 8 of this section and does not have the required documents to prove Missouri residency, United States naturalization, or lawful immigration status, the department

may issue a one-year driver's license renewal. This one-time renewal shall only be issued to an applicant who previously has held a Missouri noncommercial driver's license, noncommercial instruction permit, or nondriver's license for a period of fifteen years or more and who does not have the required documents to prove Missouri residency, United States naturalization, or lawful immigration status. After the expiration of the one-year period, no further renewal shall be provided without the applicant producing proof of Missouri residency, United States naturalization, or lawful immigration status.

302.178. INTERMEDIATE DRIVER'S LICENSE, ISSUED TO WHOM, REQUIREMENTS, LIMITATIONS, FEE, DURATION, POINT ASSESSMENT — PENALTY, APPLICATION FOR FULL DRIVING PRIVILEGES, REQUIREMENTS — EXCEPTIONS — PENALTY — RULEMAKING AUTHORITY, PROCEDURE. — 1. Any person between the ages of sixteen and eighteen years who is qualified to obtain a license pursuant to sections 302.010 to 302.340 may apply for, and the director shall issue, an intermediate driver's license entitling the applicant, while having such license in his or her possession, to operate a motor vehicle of the appropriate class upon the highways of this state in conjunction with the requirements of this section. An intermediate driver's license shall be readily distinguishable from a license issued to those over the age of eighteen. All applicants for an intermediate driver's license shall:

(1) Successfully complete the examination required by section 302.173;

(2) Pay the fee required by subsection 4 of this section;

(3) Have had a temporary instruction permit issued pursuant to subsection 1 of section 302.130 for at least a six-month period or a valid license from another state; and

(4) Have a parent, grandparent, legal guardian, or, if the applicant is a participant in a federal residential job training program, a driving instructor employed by a federal residential job training program, sign the application stating that the applicant has completed at least forty hours of supervised driving experience under a temporary instruction permit issued pursuant to subsection 1 of section 302.130, or, if the applicant is an emancipated minor, the person over twenty-one years of age who supervised such driving. For purposes of this section, the term "emancipated minor" means a person who is at least sixteen years of age, but less than eighteen years of age, who:

(a) Marries with the consent of the legal custodial parent or legal guardian pursuant to section 451.080;

(b) Has been declared emancipated by a court of competent jurisdiction;

(c) Enters active duty in the Armed Forces;

(d) Has written consent to the emancipation from the custodial parent or legal guardian; or

(e) Through employment or other means provides for such person's own food, shelter and other cost-of-living expenses;

(5) Have had no alcohol-related enforcement contacts as defined in section 302.525 during the preceding twelve months; and

(6) Have no nonalcoholic traffic convictions for which points are assessed pursuant to section 302.302, within the preceding six months.

2. An intermediate driver's license grants the licensee the same privileges to operate that classification of motor vehicle as a license issued pursuant to section 302.177, except that no person shall operate a motor vehicle on the highways of this state under such an intermediate driver's license between the hours of 1:00 a.m. and 5:00 a.m. unless accompanied by a person described in subsection 1 of section 302.130; except the licensee may operate a motor vehicle without being accompanied if the travel is to or from a school or educational program or activity, a regular place of employment or in emergency situations as defined by the director by regulation.

3. Each intermediate driver's license shall be restricted by requiring that the driver and all passengers in the licensee's vehicle wear safety belts at all times. This safety belt restriction shall not apply to a person operating a motorcycle. For the first six months after issuance of the

intermediate driver's license, the holder of the license shall not operate a motor vehicle with more than one passenger who is under the age of nineteen who is not a member of the holder's immediate family. As used in this subsection, an intermediate driver's license holder's immediate family shall include brothers, sisters, stepbrothers or stepsisters of the driver, including adopted or foster children residing in the same household of the intermediate driver's license holder. After the expiration of the first six months, the holder of an intermediate driver's license shall not operate a motor vehicle with more than three passengers who are under nineteen years of age and who are not members of the holder's immediate family. The passenger restrictions of this subsection shall not be applicable to any intermediate driver's license holder who is operating a motor vehicle being used in agricultural work-related activities.

4. Notwithstanding the provisions of section 302.177 to the contrary, the fee for an intermediate driver's license shall be five dollars and such license shall be valid for a period of two years.

5. Any intermediate driver's licensee accumulating six or more points in a twelve-month period may be required to participate in and successfully complete a driver-improvement program approved by the **[**director of the department of public safety**]** **state highways and transportation commission**. The driver-improvement program ordered by the director of revenue shall not be used in lieu of point assessment.

6. (1) An intermediate driver's licensee who has, for the preceding twelve-month period, had no alcohol-related enforcement contacts, as defined in section 302.525 and no traffic convictions for which points are assessed, upon reaching the age of eighteen years or within the thirty days immediately preceding their eighteenth birthday may apply for and receive without further examination, other than a vision test as prescribed by section 302.173, a license issued pursuant to this chapter granting full driving privileges. Such person shall pay the required fee for such license as prescribed in section 302.177.

(2) If an intermediate driver's license expires on a Saturday, Sunday, or legal holiday, such license shall remain valid for the five business days immediately following the expiration date. In no case shall a licensee whose intermediate driver's license expires on a Saturday, Sunday, or legal holiday be guilty of an offense of driving with an expired or invalid driver's license if such offense occurred within five business days immediately following an expiration date that occurs on a Saturday, Sunday, or legal holiday.

(3) The director of revenue shall deny an application for a full driver's license until the person has had no traffic convictions for which points are assessed for a period of twelve months prior to the date of application for license or until the person is eligible to apply for a six-year driver's license as provided for in section 302.177, provided the applicant is otherwise eligible for full driving privileges. An intermediate driver's license shall expire when the licensee is eligible and receives a full driver's license as prescribed in subdivision (1) of this section.

7. No person upon reaching the age of eighteen years whose intermediate driver's license and driving privilege is denied, suspended, cancelled or revoked in this state or any other state for any reason may apply for a full driver's license until such license or driving privilege is fully reinstated. Any such person whose intermediate driver's license has been revoked pursuant to the provisions of sections 302.010 to 302.540 shall, upon receipt of reinstatement of the revocation from the director, pass the complete driver examination, apply for a new license, and pay the proper fee before again operating a motor vehicle upon the highways of this state.

8. A person shall be exempt from the intermediate licensing requirements if the person has reached the age of eighteen years and meets all other licensing requirements.

9. Any person who violates any of the provisions of this section relating to intermediate drivers' licenses or the provisions of section 302.130 relating to temporary instruction permits is guilty of an infraction, and no points shall be assessed to his or her driving record for any such violation.

10. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and

is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.

311.650. OFFICES OF SUPERVISOR. — The principal office of the supervisor of liquor control shall be at the seat of government at Jefferson City, and the director of the division of **facilities management,** design and construction at the capitol shall provide offices for the liquor control department.

313.210. COMMISSION ESTABLISHED — OFFICES — ASSIGNMENT TO DEPARTMENT. — The "State Lottery Commission" is hereby created. The commission shall control and manage the state lottery. The principal office of the commission shall be located in Jefferson City in quarters provided by the division of **facilities management,** design and construction. That division shall also arrange for other needed office space for the commission or its staff. The commission shall be assigned to the department of revenue as a type III division, but the director of the department of revenue has no supervision, authority or control over the actions or decisions of the lottery commission or the director of the state lottery.

320.260. OFFICE SPACE TO BE PROVIDED. — The division of **facilities management,** design and construction shall provide office space for the state fire marshal and his **or her** employees.

324.032. REGISTRY OF LICENSES, PERMITS, AND CERTIFICATES ISSUED, CONTENTS — COPYING OF REGISTRY INFORMATION. — The division of professional registration shall maintain, for each board in the division, a registry of each person holding a current license, permit, or certificate issued by that board. The registry shall contain the name, Social Security number, and address of each person licensed or registered together with other relevant information as determined by the board. The registry for each board shall at all times be available to the board and copies shall be supplied to the board on request. Copies of the registry, except for the registrant's Social Security number, shall be available from the division or the board to any individual who pays the reasonable copying cost. Any individual may copy the registry during regular business hours. The information in the registry shall be furnished upon request to the **family support** division **[**of child support enforcement**]**. Questions concerning the currency of license of any individual shall be answered, without charge, by the appropriate board. Each year each board may publish, or cause to be published, a directory containing the name and address of each person licensed or registered for the current year together with any other information the board deems necessary. Any expense incurred by the state relating to such publication shall be charged to the board. An official copy of any such publication shall be filed with the director.

334.125. SEAL — REGULATIONS — OFFICES — RULEMAKING, PROCEDURE, THIS CHAPTER. — 1. The board shall have a common seal and shall formulate rules and regulations to govern its actions. Provision shall be made by the division of **facilities management,** design and construction for office facilities in Jefferson City, Missouri, where the records and register of the board shall be maintained.

2. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

338.314. INSPECTION OF PHARMACY WITHIN CERTAIN FACILITIES AUTHORIZED — APPLICABILITY OF LAW. — Nothing in sections 338.010 to 338.315 shall authorize the board

of pharmacy to conduct an inspection of a long-term care facility licensed under the provisions of chapter 198 by the Missouri **[**division of aging or its successors**]** **department of health and senior services**, except that the board of pharmacy may inspect any licensed pharmacy located within a long-term care facility. However, the provisions of sections 338.010 to 338.315 shall apply to all individuals licensed as a pharmacist and practicing pharmacy as defined in section 338.010.

361.010. DIVISION OF FINANCE CREATED — LOCATION OF OFFICE — TRANSFER OF DIVISION. — 1. There is hereby created a "State Division of Finance", which shall be under the management and control of a chief officer who shall be called the "Director of Finance".

2. The director of finance shall maintain his **or her** office at the City of Jefferson, reside in the state of Missouri, and shall devote all of his **or her** time to the duties of his **or her** office. The division of **facilities management,** design and construction is hereby required to provide the director of finance and the state division of finance with suitable rooms.

3. The division of finance with all of its powers, duties, and functions is assigned by type III transfer under the authority of the Omnibus State Reorganization Act of 1974 and executive order 06-04 to the department of insurance, financial institutions and professional registration. All of the general provisions, definitions, and powers enumerated in section 1 of the Omnibus State Reorganization Act of 1974 and executive order 06-04 shall apply to this department and its divisions, agencies, and personnel.

4. Wherever the laws, rules, or regulations of this state make reference to the "division of finance of the department of economic development" or to the "division of finance", such references shall be deemed to refer to the division of finance of the department of insurance, financial institutions and professional registration.

376.819. MO HEALTHNET DIVISION TO HAVE RIGHT TO PAYMENT FOR HEALTH CARE SERVICES PROVIDED. — To the extent that payment has been made by the **MO HealthNet** division **[**of medical services**]** for health care items or services furnished to a Medicaid-eligible individual, the **MO HealthNet** division **[**of medical services**]** is considered to have acquired the rights of the Medicaid-eligible individual to payment by any insurer or other party obligated to cover such health care items or services.

452.345. MAINTENANCE OR SUPPORT PAYMENTS TO CIRCUIT CLERK OR FAMILY SUPPORT PAYMENT CENTER, WHEN — PROCEDURE — DUTIES OF PARTIES — FAILURE TO PAY, CIRCUIT CLERK DUTIES. — 1. As used in sections 452.345 to 452.350, the term "IV-D case" shall mean a case in which support rights have been assigned to the state of Missouri or where the **family support** division **[**of child support enforcement**]** is providing support enforcement services pursuant to section 454.400.

2. At any time the court, upon its own motion, may, or upon the motion of either party shall, order that maintenance or support payments be made to the circuit clerk as trustee for remittance to the person entitled to receive the payments. The circuit clerk shall remit such support payments to the person entitled to receive the payments within three working days of receipt by the circuit clerk. Circuit clerks shall deposit all receipts no later than the next working day after receipt. Payment by a nonguaranteed negotiable financial instrument occurs when the instrument has cleared the depository institution and has been credited to the trust account. Effective October 1, 1999, at any time the court may upon its own motion, or shall upon the motion of either party, order that support payments as required by section 454.530 be made to the family support payment center established in section 454.530 as trustee for remittance to the person entitled to receive the payments. However, in no case shall the court order payments to be made to the payment center if the **family support** division **[**of child support enforcement**]** notifies the court that such payments shall not be made to the center. In such cases, payments shall be made to the clerk as trustee until the division notifies the court that payments shall be

directed to the payment center. Further, with the agreement of the division, the court may order payments to be made to the payment center prior to October 1, 1999.

3. The circuit clerk shall maintain records in the automated child support system which list the amount of payments, the date when payments are required to be made, and the names and addresses of the parties affected by the order. Nothing in this section shall prohibit the **family support** division **[**of child support enforcement**]** from entering information in the records of the automated child support system, as provided for in chapter 454.

4. The parties affected by the order shall inform the circuit clerk or the payment center established in section 454.530 of any change of address or of other conditions that may affect the administration of the order.

5. For any case in which an order for support or maintenance was entered prior to January 1, 1994, which has not been modified subsequent to that date, except a IV-D case, if a party becomes delinquent in maintenance or support payments in an amount equal to one month's total support obligation, the provisions of this subsection shall apply. If the circuit clerk has been appointed trustee under subsection 2 of this section, or if the person entitled to receive the payments files with the clerk an affidavit stating the particulars of the obligor's noncompliance, the circuit clerk shall send by regular mail notice of the delinquency to the obligor. This notice shall advise the obligor of the delinquency, shall state the amount of the obligation, and shall advise that the obligor's income is subject to withholding for repayment of the delinquency and for payment of current support, as provided in section 452.350. For such cases, the circuit clerk shall, in addition to the notice to the obligor, send by regular mail a notice to the obligee. This notice shall state the amount of the delinquency and shall advise the obligee that income withholding, pursuant to section 452.350, is available for collection of support delinquencies and current support, and if the support order includes amounts for child support, that support enforcement services, pursuant to section 454.425, are available through the Missouri **family support** division **[**of child support enforcement**]** of the department of social services.

452.346. MEDICAL ASSISTANCE DOCUMENTATION PROVIDED, WHEN. — Upon written request of a parent of a child, as defined in section **[**452.302**]** **452.160**, who is receiving medical assistance pursuant to section 208.151, the **family support** division **[**of child support enforcement**]** shall provide such parent with documentation that allows the child to obtain medical assistance. This section shall not apply to parents of children in the custody of a public agency.

452.347. NOTICE OF A CHILD SUPPORT ESTABLISHMENT OR MODIFICATION PROCEEDING, WHEN — COPY OF THE ORDER PROVIDED, WHEN. — In any proceeding before a court where child support may be established or modified for an applicant or recipient of child support services pursuant to chapter 454:

(1) The applicant or recipient of child support enforcement services shall be provided by any other party with notice pursuant to Rule 41 of the Missouri rules of civil procedures of all proceedings in which support obligations may be established or modified. Notice to an attorney representing a party is deemed notice on the party for purposes of this section; and

(2) A copy of any order establishing or modifying a child support obligation, or an order denying a modification shall be mailed to the **family support** division **[**of child support enforcement**]** by the court within fourteen days of issuance of such order.

452.350. WITHHOLDING OF INCOME, VOLUNTARY OR COURT MAY ORDER, WHEN, WHEN EFFECTIVE — HEARING, WHEN — EMPLOYER, DUTIES, LIABILITIES, FEE — DISCHARGE OR DISCIPLINE OF EMPLOYEE BECAUSE OF A WITHHOLDING NOTICE PROHIBITED, PENALTY — CIVIL CONTEMPT PROCEEDING AUTHORIZED — AMENDMENT, TERMINATION AND PRIORITIES OF WITHHOLDINGS. — 1. Until January 1, 1994, except for orders entered or modified in IV-D cases, each order for child support or maintenance entered

or modified by the court pursuant to the authority of this chapter, or otherwise, shall include a provision notifying the person obligated to pay such support or maintenance that, upon application by the obligee or the Missouri **family support** division **[**of child support enforcement**]** of the department of social services, the obligor's wages or other income shall be subject to withholding without further notice if the obligor becomes delinquent in maintenance or child support payments in an amount equal to one month's total support obligation. The order shall also contain provisions notifying the obligor that:

(1) The withholding shall be for the current month's maintenance and support; and

(2) The withholding shall include an additional amount equal to fifty percent of one month's child support and maintenance to defray delinquent child support and maintenance, which additional withholding shall continue until the delinquency is paid in full.

2. For all orders entered or modified in IV-D cases, and effective January 1, 1994, for every order for child support or maintenance entered or modified by the court pursuant to the authority of this chapter, or otherwise, income withholding pursuant to this section shall be initiated on the effective date of the order, except that such withholding shall not commence with the effective date of the order in any case where:

(1) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding. For purposes of this subdivision, any finding that there is good cause not to require immediate withholding must be based on, at least, a written determination and an explanation by the court that implementing immediate wage withholding would not be in the best interests of the child and proof of timely payments of previously ordered support in cases involving the modification of support orders; or

(2) A written agreement is reached between the parties that provides for an alternative arrangement. If the income of an obligor is not withheld as of the effective date of the support order, pursuant to subdivision (1) or (2) of this subsection, or otherwise, such obligor's income shall become subject to withholding pursuant to this section without further exception on the date on which the obligor becomes delinquent in maintenance or child support payments in an amount equal to one month's total support obligation. Such withholding shall be initiated in the manner provided in subsection 4 of this section. All IV-D orders entered or modified by the court shall contain a provision notifying the obligor that he or she shall notify the **family support** division **[**of child support enforcement**]** regarding the availability of medical insurance coverage through an employer or a group plan, provide the name of the insurance provider when coverage is available, and inform the division of any change in access to such insurance coverage. Any income withheld pursuant to this section for a support order initially entered on or after October 1, 1999, shall be paid to the payment center pursuant to section 454.530. Any order of the court entered on or after October 1, 1999, establishing the withholding for a support order as defined in section 454.460, or notice from the clerk issued on or after October 1, 1999, pursuant to this section for a support order shall require payment to the payment center pursuant to section 454.530.

3. The provisions of section 432.030 to the contrary notwithstanding, if income withholding has not been initiated on the effective date of the initial or modified order, the obligated party may execute a voluntary income assignment at any time, which assignment shall be filed with the court and shall take effect after service on the employer or other payer.

4. The circuit clerk, upon application of the obligee or the **family support** division **[**of child support enforcement**]**, shall send, by certified mail, return receipt requested, a written notice to the employer or other payer listed on the application when the obligated party is subject to withholding pursuant to the child support order or subsection 2 of this section. For orders entered or modified in cases known by the circuit clerk to be IV-D cases in which income withholding is to be initiated on the effective date of the order, and effective January 1, 1994, for all orders entered or modified by the court in which income withholding is to be initiated on the effective date of the order, the circuit clerk shall send such notice to the employer or other payer in the manner provided by this section at the time the order is entered without application of any party

when an employer or other payer is identified to the circuit clerk by inclusion in the pleadings pursuant to section 452.312, or otherwise. The notice of income withholding shall be prepared by the person entitled to support pursuant to the order, or the legal representative of that person, on a form prescribed by the court, and shall be presented to the clerk of the court at the time the order of support is entered. The notice shall direct the employer or other payer to withhold each month an amount equal to one month's child support and maintenance until further notice from the court. In the event of a delinquency in child support or maintenance payments in an amount equal to one month's total support obligation, the notice further shall direct the employer or other payer to withhold each month an additional amount equal to fifty percent of one month's child support and maintenance until the support delinquency is paid in full. The notice shall also include a statement of exemptions which may apply to limit the portion of the obligated party's disposable earnings which are subject to the withholding pursuant to federal or state law and notify the obligor that the obligor may request a hearing and related information pursuant to this section. The notice shall contain the Social Security number of the obligor if available. The circuit clerk shall send a copy of this notice by regular mail to the last known address of the obligated party. A notice issued pursuant to this section shall be binding on the employer or other payer, and successor employers and payers, two weeks after mailing, and shall continue until further order of the court or the **family support** division **[**of child support enforcement**]**. If the notice does not contain the Social Security number of the obligor, the employer or other payer shall not be liable for withholding from the incorrect obligor. The obligated party may, within that two-week period, request a hearing on the issue of whether the withholding should take effect. The withholding shall not be held in abeyance pending the outcome of the hearing. The obligor may not obtain relief from the withholding by paying overdue support, if any. The only basis for contesting the withholding is a mistake of fact. For the purpose of this section, "mistake of fact" shall mean an error in the amount of arrearages, if applicable, or an error as to the identity of the obligor. The court shall hold its hearing, enter its order disposing of all issues disputed by the obligated party, and notify the obligated party and the employer or other payer, within forty-five days of the date on which the withholding notice was sent to the employer.

5. For each payment the employer may charge a fee not to exceed six dollars per month, which shall be deducted from each obligor's moneys, income or periodic earnings, in addition to the amount deducted to meet the support or maintenance obligation subject to the limitations contained in the federal Consumer Credit Protection Act (15 U.S.C. 1673).

6. Upon termination of the obligor's employment with an employer upon whom a withholding notice has been served, the employer shall so notify the court in writing. The employer shall also inform the court, in writing, as to the last known address of the obligor and the name and address of the obligor's new employer, if known.

7. Amounts withheld by the employer or other payer shall be transmitted, in accordance with the notice, within seven business days of the date that such amounts were payable to the obligated party. For purposes of this section, "business day" means a day that state offices are open for regular business. The employer or other payer shall, along with the amounts transmitted, provide the date each amount was withheld from each obligor. If the employer or other payer is withholding amounts for more than one order, the employer or other payer may combine all such withholdings that are payable to the same circuit clerk or the family support payment center and transmit them as one payment, together with a separate list identifying the cases to which they apply. The cases shall be identified by court case number, name of obligor, the obligor's Social Security number, the IV-D case number, if any, the amount withheld for each obligor, and the withholding date or dates for each obligor, to the extent that such information is known to the employer or other payer. An employer or other payer who fails to honor a withholding notice pursuant to this section may be held in contempt of court and is liable to the obligee for the amount that should have been withheld. Compliance by an employer or other payer with the withholding notice operates as a discharge of liability to the obligor as to that portion of the obligor's periodic earnings or other income so affected.

8. As used in this section, the term "employer" includes the state and its political subdivisions.

9. An employer shall not discharge or otherwise discipline, or refuse to hire, an employee as a result of a withholding notice issued pursuant to this section. Any obligor who is aggrieved as a result of a violation of this subsection may bring a civil contempt proceeding against the employer by filing an appropriate motion in the cause of action from which the withholding notice issued. If the court finds that the employer discharged, disciplined, or refused to hire the obligor as a result of the withholding notice, the court may order the employer to reinstate or hire the obligor, or rescind any wrongful disciplinary action. If, after the entry of such an order, the employer refuses without good cause to comply with the court's order, or if the employer fails to comply with the withholding notice, the court may, after notice to the employer and a hearing, impose a fine against the employer, not to exceed five hundred dollars. Proceeds of any such fine shall be distributed by the court to the county general revenue fund.

10. A withholding entered pursuant to this section may, upon motion of a party and for good cause shown, be amended by the court. The clerk shall notify the employer of the amendment in the manner provided for in subsection 4 of this section.

11. The court, upon the motion of obligor and for good cause shown, may terminate the withholding, except that the withholding shall not be terminated for the sole reason that the obligor has fully paid past due child support and maintenance.

12. A withholding effected pursuant to this section shall have priority over any other legal process pursuant to state law against the same wages, except that where the other legal process is an order issued pursuant to this section or section 454.505, the processes shall run concurrently, up to applicable wage withholding limitations. If concurrently running wage withholding processes for the collection of support obligations would cause the amounts withheld from the wages of the obligor to exceed applicable wage withholding limitations and includes a wage withholding from another state pursuant to section 454.932, the employer shall first satisfy current support obligations by dividing the amount available to be withheld among the orders on a pro rata basis using the percentages derived from the relationship each current support order amount has to the sum of all current child support obligations. Thereafter, delinquencies shall be satisfied using the same pro rata distribution procedure used for distributing current support, up to the applicable limitation. If concurrently running wage withholding processes for the collection of support obligations would cause the amounts withheld from the wages of the obligor to exceed applicable wage withholding limitations and does not include a wage withholding from another state pursuant to section 454.932, the employer shall withhold and pay to the payment center an amount equal to the wage withholding limitations. The payment center shall first satisfy current support obligations by dividing the amount available to be withheld among the orders on a pro rata basis using the percentages derived from the relationship each current support order amount has to the sum of all current child support obligations. Thereafter, arrearages shall be satisfied using the same pro rata distribution procedure used for distributing current support, up to the applicable limitation.

13. The remedy provided by this section applies to child support and maintenance orders entered prior to August 13, 1986, notwithstanding the absence of the notice to the obligor provided for in subsection 1 of this section, provided that prior notice from the circuit clerk to the obligor in the manner prescribed in subsection 5 of section 452.345 is given.

14. Notwithstanding any provisions of this section to the contrary, in a case in which support rights have been assigned to the state or in which the **family support** division **[**of child support enforcement**]** is providing support enforcement services pursuant to section 454.425, the director of the **family support** division **[**of child support enforcement**]** may amend or terminate a withholding order issued pursuant to this section, as provided in this subsection without further action of the court. The director may amend or terminate a withholding order and issue an administrative withholding order pursuant to section 454.505 when the director determines that children for whom the support order applies are no longer entitled to support pursuant to section

452.340, when the support obligation otherwise ends and all arrearages are paid, when the support obligation is modified pursuant to section 454.500, or when the director enters an order that is approved by the court pursuant to section 454.496. The director shall notify the employer and the circuit clerk of such amendment or termination. The director's administrative withholding order or withholding termination order shall preempt and supersede any previous judicial withholding order issued pursuant to this or any other section.

15. For the purpose of this section, "income" means any periodic form of payment due to an individual, regardless of source, including wages, salaries, commissions, bonuses, workers' compensation benefits, disability benefits, payments pursuant to a pension or a retirement program and interest.

16. If the secretary of the Department of Health and Human Services promulgates a final standard format for an employer income withholding notice, the court shall use or require the use of such notice.

452.370. MODIFICATION OF JUDGMENT AS TO MAINTENANCE OR SUPPORT, WHEN — TERMINATION, WHEN — RIGHTS OF STATE WHEN AN ASSIGNMENT OF SUPPORT HAS BEEN MADE — COURT TO HAVE CONTINUING JURISDICTION, DUTIES OF CLERK, CLERK TO BE "APPROPRIATE AGENT", WHEN — SEVERANCE OF RESPONSIVE PLEADING. — 1. Except as otherwise provided in subsection 6 of section 452.325, the provisions of any judgment respecting maintenance or support may be modified only upon a showing of changed circumstances so substantial and continuing as to make the terms unreasonable. In a proceeding for modification of any child support or maintenance judgment, the court, in determining whether or not a substantial change in circumstances has occurred, shall consider all financial resources of both parties, including the extent to which the reasonable expenses of either party are, or should be, shared by a spouse or other person with whom he or she cohabits, and the earning capacity of a party who is not employed. If the application of the child support guidelines and criteria set forth in section 452.340 and applicable supreme court rules to the financial circumstances of the parties would result in a change of child support from the existing amount by twenty percent or more, a prima facie showing has been made of a change of circumstances so substantial and continuing as to make the present terms unreasonable, if the existing amount was based upon the presumed amount pursuant to the child support guidelines.

2. When the party seeking modification has met the burden of proof set forth in subsection 1 of this section, the child support shall be determined in conformity with criteria set forth in section 452.340 and applicable supreme court rules.

3. Unless otherwise agreed in writing or expressly provided in the judgment, the obligation to pay future statutory maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.

4. Unless otherwise agreed in writing or expressly provided in the judgment, provisions for the support of a child are terminated by emancipation of the child. The parent entitled to receive child support shall have the duty to notify the parent obligated to pay support of the child's emancipation and failing to do so, the parent entitled to receive child support shall be liable to the parent obligated to pay support for child support paid following emancipation of a minor child, plus interest.

5. If a parent has made an assignment of support rights to the **family support** division **[**of family services**]** on behalf of the state as a condition of eligibility for benefits pursuant to the Temporary Assistance for Needy Families program and either party initiates a motion to modify the support obligation by reducing it, the state of Missouri shall be named as a party to the proceeding. The state shall be served with a copy of the motion by sending it by certified mail to the director of the **family support** division **[**of child support enforcement**]**.

6. The court shall have continuing personal jurisdiction over both the obligee and the obligor of a court order for child support or maintenance for the purpose of modifying such order. Both obligee and obligor shall notify, in writing, the clerk of the court in which the

support or maintenance order was entered of any change of mailing address. If personal service of the motion cannot be had in this state, the motion to modify and notice of hearing shall be served outside the state as provided by supreme court rule 54.14. The order may be modified only as to support or maintenance installments which accrued subsequent to the date of personal service. For the purpose of 42 U.S.C. 666(a)(9)(C), the circuit clerk shall be considered the "appropriate agent" to receive notice of the motion to modify for the obligee or the obligor, but only in those instances in which personal service could not be had in this state.

7. If a responsive pleading raising the issues of custody or visitation is filed in response to a motion to modify child support filed at the request of the **family support** division **[**of child support enforcement**]** by a prosecuting attorney or circuit attorney or an attorney under contract with the division, such responsive pleading shall be severed upon request.

8. Notwithstanding any provision of this section which requires a showing of substantial and continuing change in circumstances, in a IV-D case filed pursuant to this section by the **family support** division **[**of child support enforcement**]** as provided in section 454.400, the court shall modify a support order in accordance with the guidelines and criteria set forth in supreme court rule 88.01 and any regulations thereunder if the amount in the current order differs from the amount which would be ordered in accordance with such guidelines or regulations.

452.416. PARENT'S CHANGE IN INCOME DUE TO MILITARY SERVICE, EFFECT ON ORDER OF CHILD SUPPORT — DIRECTOR OF DIVISION, DUTIES. — 1. Notwithstanding any other provision of law to the contrary, whenever a parent in emergency military service has a change in income due to such military service, such change in income shall be considered a change in circumstances so substantial and continuing as to make the terms of any order or judgment for child support or visitation unreasonable.

2. Upon receipt of a notarized letter from the commanding officer of a noncustodial parent in emergency military service which contains the date of the commencement of emergency military service and the compensation of the parent in emergency military service, the director of the **family support** division **[**of child support enforcement**]** shall take appropriate action to seek modification of the order or judgment of child support in accordance with the guidelines and criteria set forth in section 452.340 and applicable supreme court rules. Such notification to the director shall constitute an application for services under section 454.425.

3. Upon return from emergency military service the parent shall notify the director of the **family support** division **[**of child support enforcement**]** who shall take appropriate action to seek modification of the order or judgment of child support in accordance with the guidelines and criteria set forth in section 452.340 and applicable supreme court rules. Such notification to the director shall constitute an application for services under section 454.425.

4. As used in this section, the term "emergency military service" means that the parent is a member of a reserve unit or National Guard unit which is called into active military duty for a period of more than thirty days.

453.005. CONSTRUCTION OF SECTIONS 453.010 TO 453.400 — ETHNIC AND RACIAL DIVERSITY CONSIDERATIONS. — 1. The provisions of sections 453.005 to 453.400 shall be construed so as to promote the best interests and welfare of the child in recognition of the entitlement of the child to a permanent and stable home.

2. The **children's** division **[**of family services**]** and all persons involved in the adoptive placement of children as provided in subdivisions (1), (2) and (4) of section 453.014 shall provide for the diligent recruitment of potential adoptive homes that reflect the ethnic and racial diversity of children in the state for whom adoptive homes are needed.

3. Placement of a child in an adoptive home may not be delayed or denied on the basis of race, color or national origin.

453.014. WHO MAY PLACE MINOR FOR ADOPTION — RULES AND REGULATIONS, AUTHORITY. — 1. The following persons may place a minor for adoption:

(1) The **children's** division **[**of family services**]** of the department of social services;

(2) A child placing agency licensed pursuant to sections 210.481 to 210.536;

(3) The child's parents, without the direct or indirect assistance of an intermediary, in the home of a relative of the child within the third degree;

(4) An intermediary, which shall include an attorney licensed pursuant to chapter 484; a physician licensed pursuant to chapter 334; or a clergyman of the parents.

2. All persons granted the authority to place a minor child for adoption as designated in subdivision (1), (2) or (4) of subsection 1 of this section shall comply with the rules and regulations promulgated by the department of social services and the department of health and senior services for such placement.

3. The **children's division of the** department of social services**[**, division of family services**]** and the department of health and senior services shall promulgate rules and regulations regarding the placement of a minor for adoption.

4. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

453.015. DEFINITIONS. — As used in sections 453.010 to 453.400, the following terms mean:

(1) "Minor" or "child", any person who has not attained the age of eighteen years or any person in the custody of the **children's** division **[**of family services**]** who has not attained the age of twenty-one;

(2) "Parent", a birth parent or parents of a child, including the putative father of the child, as well as the husband of a birth mother at the time the child was conceived, or a parent or parents of a child by adoption. The putative father shall have no legal relationship unless he has acknowledged the child as his own by affirmatively asserting his paternity;

(3) "Putative father", the alleged or presumed father of a child including a person who has filed a notice of intent to claim paternity with the putative father registry established in section 192.016 and a person who has filed a voluntary acknowledgment of paternity pursuant to section 193.087; and

(4) "Stepparent", the spouse of a biological or adoptive parent. The term does not include the state if the child is a ward of the state. The term does not include a person whose parental rights have been terminated.

453.026. WRITTEN REPORT TO BE FURNISHED TO PROSPECTIVE ADOPTIVE PARENT, COURT AND GUARDIAN AD LITEM, WHEN. — 1. As early as is practical before a prospective adoptive parent accepts physical custody of a child, the person placing the child for adoption, as authorized by section 453.014, shall furnish to the court, the guardian ad litem and the prospective adoptive parent a written report regarding the child.

2. The person placing the child shall not be held liable for incorrect information as provided by others or unintentional errors when making the written report.

3. The **children's division of the** department of social services**[**, division of family services**]** shall promulgate rules and regulations regarding all written information that shall be furnished to the court, the guardian ad litem and the prospective adoptive parent.

4. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

453.065. DEFINITIONS. — As used in sections 453.065 to 453.074, the following words and terms shall have the meanings indicated:

(1) "Child", a person within the state who is under the age of eighteen or in the custody of the **children's** division **[**of family services**]** who is in need of medical, dental, educational, mental

or other related health services and treatment, as defined in this section, or who belongs to a racial or ethnic minority, who is five years of age or older, or who is a member of a sibling group, and for whom an adoptive home is not readily available. If the physical, dental or mental condition of the child requires care after the age of eighteen, payment can be continued with the approval of the **children's** division **[**of family services**]** of the department of social services and subject to annual review;

(2) "Diminishing allotment", a monthly payment which periodically diminishes over a period of not longer than four years at which time it ceases;

(3) "Long term subsidy", a continuous monthly payment toward the child's care for a period of more than four years;

(4) "Special services", an allotment to a child who is in need of medical, dental, educational, mental health or other related health services and treatment, including treatment for physical handicap, intellectual impairment, developmental disability, mental or emotional disturbance, social maladjustment;

(5) "Time limited subsidy", a monthly allotment which is continued for a limited time after legal adoption, not exceeding four years. This compensation is to aid the family in integrating the care of the new child in their home.

453.070. INVESTIGATIONS PRECONDITION FOR ADOPTION — CONTENTS OF INVESTIGATION REPORT — HOW CONDUCTED — ASSESSMENTS OF ADOPTIVE PARENTS, CONTENTS — WAIVING OF INVESTIGATION, WHEN — FEES — PREFERENCE TO FOSTER PARENTS, WHEN. — 1. Except as provided in subsection 5 of this section, no decree for the adoption of a child under eighteen years of age shall be entered for the petitioner or petitioners in such adoption as ordered by the juvenile court having jurisdiction, until a full investigation, which includes an assessment of the adoptive parents, an appropriate postplacement assessment and a summary of written reports as provided for in section 453.026, and any other pertinent information relevant to whether the child is suitable for adoption by the petitioner and whether the petitioner is suitable as a parent for the child, has been made. The report shall also include a statement to the effect that the child has been considered as a potential subsidy recipient.

2. Such investigation shall be made, as directed by the court having jurisdiction, either by the **children's** division **[**of family services**]** of the department of social services, a juvenile court officer, a licensed child-placement agency, a social worker, a professional counselor, or a psychologist licensed under chapter 337 and associated with a licensed child-placement agency, or other suitable person appointed by the court. The results of such investigation shall be embodied in a written report that shall be submitted to the court within ninety days of the request for the investigation.

3. The **[**department of social services, division of family services,**]** **children's division** shall develop rules and regulations regarding the content of the assessment of the petitioner or petitioners. The content of the assessment shall include but not be limited to a report on the condition of the petitioner's home and information on the petitioner's education, financial, marital, medical and psychological status and criminal background check. If an assessment is conducted after August 28, 1997, but prior to the promulgation of rules and regulations by the department concerning the contents of such assessment, any discrepancy between the contents of the actual assessment and the contents of the assessment required by department rule shall not be used as the sole basis for invalidating an adoption. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536.

4. The assessment of petitioner or petitioners shall be submitted to the petitioner and to the court prior to the scheduled hearing of the adoptive petition.

5. In cases where the adoption or custody involves a child under eighteen years of age that is the natural child of one of the petitioners and where all of the parents required by this chapter to give consent to the adoption or transfer of custody have given such consent, the juvenile court

may waive the investigation and report, except the criminal background check, and enter the decree for the adoption or order the transfer of custody without such investigation and report.

6. In the case of an investigation and report made by the **children's** division **[**of family services**]** by order of the court, the court may order the payment of a reasonable fee by the petitioner to cover the costs of the investigation and report.

7. Any adult person or persons over the age of eighteen who, as foster parent or parents, have cared for a foster child continuously for a period of nine months or more and bonding has occurred as evidenced by the positive emotional and physical interaction between the foster parent and child, may apply to such authorized agency for the placement of such child with them for the purpose of adoption if the child is eligible for adoption. The agency and court shall give preference and first consideration for adoptive placements to foster parents. However, the final determination of the propriety of the adoption of such foster child shall be within the sole discretion of the court.

8. (1) Nothing in this section shall be construed to permit discrimination on the basis of disability or disease of a prospective adoptive parent.

(2) The disability or disease of a prospective adoptive parent shall not constitute a basis for a determination that the petitioner is unfit or not suitable to be an adoptive parent without a specific showing that there is a causal relationship between the disability or disease and a substantial and significant risk of harm to a child.

453.074. DUTIES OF CHILDREN'S DIVISION IN ADMINISTRATION OF SUBSIDY. — 1. The **children's** division **[**of family services**]** shall have the following duties in the administration of the subsidy program:

(1) Notify all petitioners for adoption of the availability of subsidies for a child;

(2) Provide all petitioners for adoption with the rules and eligibility requirements for subsidies;

(3) Inform the parents of a child receiving a subsidy of reductions or other modifications in the terms and conditions of the written agreement;

(4) Establish procedures for the resolution of disputes involving the delay, denial, amount or type of subsidy;

(5) File an annual report to the legislature in the budget proposal on the adoption subsidy program, including but not limited to, the number and types of subsidies being paid, an accounting of state and federal funds expended, and a projection of future monetary needs to maintain the subsidy program;

(6) Comply with all federal laws relating to adoption subsidies in order to maintain the eligibility of the state of Missouri for federal funds.

2. The provisions of this section shall not apply to the adoption of a child by the spouse of a biological parent or an adoptive parent.

453.077. POSTPLACEMENT ASSESSMENTS REQUIRED, WHEN — RULEMAKING AUTHORITY. — 1. When a child has been placed with the petitioner for the required six-month placement period, the person conducting the preplacement assessment of the adoption or other persons authorized to conduct assessments pursuant to section 453.070 shall provide the court with a postplacement assessment. The specific content of which shall be determined by rule by the **children's division of the** department of social services**[**, division of family services**]**. The postplacement assessment shall include an update of the preplacement assessment which was submitted to the court pursuant to section 453.070, and a report on the emotional, physical and psychological status of the child. If an assessment is conducted after August 28, 1997, but prior to the promulgation of rules and regulations by the department concerning the contents of such assessment, any discrepancy between the contents of the actual assessment and the contents of the assessment required by department rule shall not be used as the sole basis for invalidating an adoption.

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

453.102. DIVISION TO INFORM ADOPTIVE PARENTS OF POSTPLACEMENT SERVICES, WHEN — NATURE OF SERVICES — FAMILY SERVICES TO ASSIST IN CASES OF ADOPTIVE PLACEMENT. — 1. After an adoptive placement has been made, the **children's** division **[**of family services**]** or other child-placing agency shall inform the adoptive parents of postplacement services available to them and the child. Such services may include, aiding the family in contacting adoptive family support groups, providing family counseling, periodic visitation by the agency and any other resources or services that would assist the family and the child in adjusting to the adoption.

2. In the event that an adoptive placement or a final adoption is disrupted resulting in the removal of the child from the home of the adoptive parents, the **children's** division **[**of family services**]** or other child-placing agency shall assist the parents and the child by providing or arranging contact with support groups, counseling or any other service deemed necessary to aid the family and the child in adjusting to the removal.

453.110. PROHIBITING TRANSFER OF CUSTODY OF CHILD — EXCEPTION — PENALTY — INVESTIGATION AND REPORT — TRANSFER OF CUSTODY ORDER ISSUED, WHEN. — 1. No person, agency, organization or institution shall surrender custody of a minor child, or transfer the custody of such a child to another, and no person, agency, organization or institution shall take possession or charge of a minor child so transferred, without first having filed a petition before the circuit court sitting as a juvenile court of the county where the child may be, praying that such surrender or transfer may be made, and having obtained such an order from such court approving or ordering transfer of custody.

2. If any such surrender or transfer is made without first obtaining such an order, such court shall, on petition of any public official or interested person, agency, organization or institution, order an investigation and report as described in section 453.070 to be completed by the **children's** division **[**of family services**]** and shall make such order as to the custody of such child in the best interest of such child.

3. Any person violating the terms of this section shall be guilty of a class D felony.

4. The investigation required by subsection 2 of this section shall be initiated by the **children's** division **[**of family services**]** within forty-eight hours of the filing of the court order requesting the investigation and report and shall be completed within thirty days. The court shall order the person having custody in violation of the provisions of this section to pay the costs of the investigation and report.

5. This section shall not be construed to prohibit any parent, agency, organization or institution from placing a child with another individual for care if the right to supervise the care of the child and to resume custody thereof is retained, or from placing a child with a licensed foster home within the state through a child-placing agency licensed by this state as part of a preadoption placement.

6. After the filing of a petition for the transfer of custody for the purpose of adoption, the court may enter an order of transfer of custody if the court finds all of the following:

(1) A family assessment has been made as required in section 453.070 and has been reviewed by the court;

(2) A recommendation has been made by the guardian ad litem;

(3) A petition for transfer of custody for adoption has been properly filed or an order terminating parental rights has been properly filed;

(4) The financial affidavit has been filed as required under section 453.075;

(5) The written report regarding the child who is the subject of the petition containing the information has been submitted as required by section 453.026;

(6) Compliance with the Indian Child Welfare Act, if applicable; and

(7) Compliance with the Interstate Compact on the Placement of Children pursuant to section 210.620.

7. A hearing on the transfer of custody for the purpose of adoption is not required if:

(1) The conditions set forth in subsection 6 of this section are met;

(2) The parties agree and the court grants leave; and

(3) Parental rights have been terminated pursuant to section 211.444 or 211.447.

453.400. STEPPARENT REQUIRED TO SUPPORT STEPCHILD — RECOVERY FROM NATURAL OR ADOPTIVE PARENT, WHEN — STEPPARENT'S INCOME CONSIDERED IN AID TO DEPENDENT CHILDREN. — 1. A stepparent shall support his or her stepchild to the same extent that a natural or adoptive parent is required to support his or her child so long as the stepchild is living in the same home as the stepparent. However, nothing in this section shall be construed as abrogating or in any way diminishing the duty a parent otherwise would have to provide child support, and no court shall consider the income of a stepparent, or the amount actually provided for a stepchild by a stepparent, in determining the amount of child support to be paid by a natural or adoptive parent.

2. A natural or adoptive parent shall be liable to a stepparent for the sum of money expended by a stepparent for the support of a stepchild when that sum of money was expended because of the neglect or refusal of the natural or adoptive parent to pay any part of or all of the court-ordered amount of support.

3. This section shall not abrogate or diminish the common law right which a stepparent may possess to recover from a natural or adoptive parent the expense of providing necessaries for a stepchild in the absence of a court order for child support determining the amount of support to be paid by a natural or adoptive parent.

4. This section shall not be construed as granting to a stepparent any right to the care and custody of a stepchild or as granting a stepchild any right to inherit from a stepparent under the general statutory laws governing descent and distribution.

5. This section shall apply without regard to whether public assistance is being provided on behalf of the stepchild or stepchildren in question.

6. This section shall be construed to apply only to support obligations incurred on or after July 1, 1977, notwithstanding that a marriage giving rise to the support obligation occurred prior to July 1, 1977.

7. With respect to section 208.040, this section shall not be construed to render a child ineligible for public assistance on the basis of the child's not being deprived of parental support, but it shall be construed to permit the inclusion of the income of a stepparent in the determination of eligibility for benefits and in the determination of the amount of the assistance payment.

8. In the determination of eligibility for benefits and in the determination of the amount of the assistance payment under section 208.150, that portion of the stepparent's income, as defined by the **family support** division **[**of family services**]** in the administration of aid to families with dependent children, shall be considered.

454.400. FAMILY SUPPORT DIVISION ESTABLISHED — DUTIES, POWERS — RULES, PROCEDURE. — 1. There is established within the department of social services the **"Family Support** Division **[**of Child Support Enforcement**]"** to administer the state plan for child support enforcement. The duty pursuant to the state plan to litigate or prosecute support actions shall be performed by the appropriate prosecuting attorney, or other attorney pursuant to a cooperative agreement with the department. The department shall fully utilize existing IV-A staff of the **family support** division **[**of child support enforcement**]** to perform child support enforcement duties approved by the United States Department of Health and Human Services and consistent with federal requirements as specified in P.L. 93-647 and 45 CFR, section 303.20.

2. In addition to the powers, duties and functions vested in the **family support** division **[**of child support enforcement**]** by other provisions of this chapter or by other laws of this state, the **family support** division **[**of child support enforcement**]** shall have the power:

(1) To sue and be sued;

(2) To make contracts and carry out the duties imposed upon it by this or any other law;

(3) To administer, disburse, dispose of and account for funds, commodities, equipment, supplies or services, and any kind of property given, granted, loaned, advanced to or appropriated by the state of Missouri for any of the purposes herein;

(4) To administer oaths, issue subpoenas for witnesses, examine such witnesses under oath, and make and keep a record of the same;

(5) To adopt, amend and repeal rules and regulations necessary or desirable to carry out the provisions of this chapter and which are not inconsistent with the constitution or laws of this state;

(6) To cooperate with the United States government in matters of mutual concern pertaining to any duties wherein the **family support** division **[**of child support enforcement**]** is acting as a state agency, including the adoption of such methods of administration as are found by the United States government to be necessary for the efficient operation of the state plan hereunder;

(7) To make such reports in such form and containing such information as the United States government may, from time to time, require, and comply with such provisions as the United States government may, from time to time, find necessary to assure the correctness and verification of such reports;

(8) To appoint, when and if it may deem necessary, advisory committees to provide professional or technical consultation in respect to child support enforcement problems and program administration. The members of such advisory committees shall receive no compensation for their services other than expenses actually incurred in the performance of their official duties. The number of members of each such advisory committee shall be determined by the **family support** division **[**of child support enforcement**]**, and such advisory committees shall consult with the **family support** division **[**of child support enforcement**]** in respect to problems and policies incident to the administration of the particular function germane to their respective field of competence;

(9) To initiate or cooperate with other agencies in developing measures for the enforcement of support obligations;

(10) To collect statistics, make special fact-finding studies and publish reports in reference to child support enforcement;

(11) To establish or cooperate in research or demonstration projects relative to child support enforcement and the welfare program which will help improve the administration and effectiveness of programs carried on or assisted pursuant to the federal Social Security Act and the programs related thereto;

(12) To accept gifts and grants of any property, real or personal, and to sell such property and expend such gifts or grants not inconsistent with the administration of the state plan for child support enforcement and within the limitations of the donor thereof;

(13) To review every three years or such shorter cycle as the division may establish, upon the request of the obligee, the obligor or if there is an assignment under Part A of the federal Social Security Act, upon the request of the division, obligee or obligor taking into account the best interest of the child, the adequacy of child support orders in IV-D cases to determine whether modification is appropriate pursuant to the guidelines established by supreme court rule 88.01, to establish rules pursuant to chapter 536, to define the procedure and frequency of such reviews, and to initiate proceedings for modification where such reviews determine that a modification is appropriate. This subdivision shall not be construed to require the division or its designees to represent the interests of an absent parent against the interests of a custodial parent or the state;

(14) To provide services relating to the establishment of paternity and the establishment, modification and enforcement of child support obligations.

The division shall provide such services:

(a) Unless, as provided in this chapter, good cause or other exception exists, to each child for whom:

a. Assistance is provided under the state program funded under Part IV-A of the Social Security Act;

b. Benefits or services for foster care maintenance are provided under the state program funded under Part IV-E of the Social Security Act; or

c. Medical assistance is provided under the state plan approved under Title XIX of the Social Security Act; and

(b) To any other child, if an individual applies for such services with respect to such child;

(15) To enforce support obligations established with respect to:

(a) A child for whom the state provides services under the state plan for child support; or

(b) The custodial parent of a child;

(16) To enforce support orders against the parents of the noncustodial parent, jointly and severally, in cases where such parents have a minor child who is the parent and the custodial parent is receiving assistance under the state program funded under Part A of Title IV of the Social Security Act; and

(17) To prevent a child support debtor from fraudulently transferring property to avoid payment of child support. If the division has knowledge of such transfer, the division shall:

(a) Seek to void such transfer; or

(b) Obtain a settlement in the best interest of the child support creditor.

3. No rule or portion of a rule promulgated pursuant to the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

454.403. SOCIAL SECURITY NUMBER REQUIRED ON ALL LICENSE, PERMIT OR CERTIFICATE APPLICATIONS. — Notwithstanding any other provision of law to the contrary, applicants for a professional, occupational or recreational license not coming under the purview of the division of professional registration shall be required by the appropriate licensing authority to provide the applicant's Social Security number on any application for a license, permit or certificate, or any renewal of a license, permit or certificate. The **family support** division **[**of child support enforcement**]** is authorized to coordinate with and assist with such licensing authorities to develop procedures to implement this requirement.

454.405. ENFORCEMENT OF SUPPORT OBLIGATIONS, COUNTIES TO COOPERATE — AGREEMENTS, CONTENTS, FUNDING, CANCELLATION — PROSECUTING ATTORNEYS, ADDITIONAL STAFF, FUNDS. — 1. Each county shall cooperate with the **family support** division **[**of child support enforcement**]** in the enforcement of support obligations under the state plan by appropriating a sufficient sum of money for the offices of the prosecuting attorney or, by entering into a multiple county agreement to share the costs of enforcement of support obligations and appropriating sufficient funds for such enforcement, and by appropriating to the circuit clerk a sufficient sum to enable those offices to perform any duty imposed under this law or any other law with respect to the enforcement of support obligations or to the transmittal of support moneys to the **family support** division **[**of child support enforcement**]** for deposit in the state treasury to the credit of the child support enforcement fund.

2. The **family support** division **[**of child support enforcement**]** shall enter into cooperative agreements with city or county governing bodies or officers, including, but not necessarily limited to, circuit courts, circuit clerks and prosecuting attorneys who choose to enter into a cooperative agreement, except that the director of the **family support** division **[**of child support enforcement**]** may, not less than sixty days prior to the expiration date of an existing cooperative

agreement, notify a city or county governing body or officer that the division will not enter into a cooperative agreement because the city or county governing body or officer failed to comply with the terms of the existing cooperative agreement, or with rules established by the division pursuant to subsection 4 of this section. The notice shall be in writing and shall set forth the reason for not entering into a new cooperative agreement. The notice shall be sent by certified mail, return receipt requested, to all city or county signatories of the existing cooperative agreement. Within thirty days of receipt of the notice, the city or county governing body or officer may submit to the director of the **family support** division **[**of child support enforcement**]** objections to the findings of the director, or a proposed plan to bring the city, county or officer into compliance. The director shall respond to the objections or the proposed plan prior to the expiration date of the existing cooperative agreement.

3. The cooperative agreements to be executed shall provide, as a minimum, for the following:

(1) For the governing body of the city or county to hire such additional stenographic, secretarial and administrative assistants as may be required to administer the child support enforcement program within that jurisdiction or, if the city or county is a participant in a multiple county agreement, to participate in the cost of the additional staff;

(2) For the city or county, upon recommendation of the prosecuting attorney, to hire such additional assistant prosecuting attorneys as may be required to administer the child support enforcement program within that jurisdiction or, if the city or county is a participant in a multiple county agreement, to participate in the cost of attorneys retained for that purpose;

(3) For the city or county to furnish office space and other administrative requirements for the proper administration of the child support enforcement program within that jurisdiction or, if the city or county is a participant in a multiple county agreement, to participate in the cost of the office space and other administrative requirements;

(4) For the reimbursement by the state from moneys received from the federal government of reasonable and necessary costs, as determined by the director of the **family support** division **[**of child support enforcement**]**, associated with enforcement of support obligations by the county or city or, if applicable, the multiple county unit, at the applicable rate, to be paid at least monthly if properly authenticated vouchers are submitted by the city or county. Payments shall be made no later than thirty days from the date of submission of the vouchers;

(5) For the city or county or, if applicable, the multiple county unit, to maintain financial and performance records required by federal regulation to be available for inspection by representatives of the department of social services, the state auditor, or the United States Department of Health and Human Services; and

(6) For the payment of incentive payments by the state from moneys received from the federal government as provided by the Social Security Act and federal and state regulations promulgated thereunder. The **family support** division **[**of child support enforcement**]** shall calculate and promptly pay to the city or county a basic incentive payment not less than the minimum incentive payment rate established by 45 CFR 303.52; provided, however, that the total amount paid as incentives for non-AFDC collections shall not exceed the total amount paid as incentives for AFDC collections, unless otherwise agreed upon in the cooperative agreement between the state and county or city. Incentive payments by the state to the counties shall not occur for any period during which the state does not receive incentive payments from the federal government.

4. The **family support** division **[**of child support enforcement**]** shall have the authority to promulgate rules pursuant to this section, section 454.400 and chapter 536 in order to establish criteria for record keeping and performance relating to the effective administration of the child support enforcement program, which shall apply to a city or county office or officer, or multiple county unit, with whom a cooperative agreement is entered. The division may cancel a cooperative agreement with a city or county office if the office fails to comply with the rules established under this subsection, or fails to comply with the terms of the cooperative

agreement. The division director shall notify the city or county governing body or officer in writing, setting forth the reason for the cancellation. Notice of cancellation shall be sent by certified mail, return receipt requested, to all city or county signatories of the cooperative agreement, and shall be mailed at least sixty days prior to the effective date of cancellation. Within thirty days of receipt of the notice, the city or county governing body or officer may submit to the director of the **family support** division **[**of child support enforcement**]** objections to the findings of the director, or a proposed plan to bring the city, county or officer into compliance with the cooperative agreement or rules established under this subsection. The director shall respond to the objections or proposed plan prior to the effective date of cancellation.

5. At any time after the director determines not to enter into a cooperative agreement under subsection 2 of this section or cancels a cooperative agreement under subsection 4 of this section, the city or county governing body or officer may request that a new cooperative agreement be negotiated. At the time of the request, the city or county governing body or officer shall submit a proposed plan for compliance with a cooperative agreement or with rules established under this section. After the request and submission of the proposed plan, the director may enter into a cooperative agreement with the city or county governing body or officer. The cooperative agreement shall contain the provisions set out in subsection 3 of this section.

6. The limitations set out in chapter 56 regarding the salaries and the number of assistant prosecuting attorneys and the stenographic or administrative personnel shall not apply, and the county or city governing body shall appropriate sufficient funds to compensate such additional staff or multiple county unit for implementing the provisions of the child support enforcement program.

7. With the approval of the city or county governing body and the director of the **family support** division **[**of child support enforcement**]**, and for the purpose of investigating the child support cases, the prosecuting attorney, circuit attorney or multiple county unit may employ sufficient investigators to properly administer the provisions of the child support enforcement program.

454.408. DUTIES OF THE FAMILY SUPPORT DIVISION. — The **family support** division **[**of child support enforcement**]**:

(1) Shall determine whether a person who has applied for or is receiving assistance from a program funded pursuant to Part A or Part E of Title IV of the Social Security Act, Title XIX of the Social Security Act or the Food Stamp Act is cooperating in good faith with the division in establishing the paternity of, or in establishing, modifying or enforcing a support order for any child of such person by providing the division with the name of the noncustodial parent or any other information the division may require. The division may, by regulation, excuse compliance with the provisions of this subsection on a case-by-case basis for good cause or other exceptions as the division may deem to be in the best interest of the child;

(2) Shall require as a condition of cooperation that such person supply additional information deemed necessary by the division and appear at any interviews, hearings or legal proceedings;

(3) Shall require as a condition of cooperation that such person and such person's child submit to genetic testing pursuant to a judicial or administrative order;

(4) May request that such person sign a voluntary acknowledgment of paternity, after notice of the rights and consequences of such an acknowledgment, but may not require such person to sign an acknowledgment or otherwise relinquish the right to a genetic test as a condition of cooperation and eligibility for assistance from a state program funded pursuant to Part A or Part E of Title IV of the Social Security Act, Title XIX of the Social Security Act or the Food Stamp Act; and

(5) Shall promptly notify such person, the **family support** division **[**of family services**] ,** or the **MO HealthNet** division **[**of medical services**]** of every determination made pursuant to

this section, including a determination that such person is not cooperative and the basis for such determination.

454.415. DEFINITIONS — ASSIGNMENT OF SUPPORT RIGHTS TO DIVISION, PROCEDURE — CLERK OF COURT OR FAMILY SUPPORT PAYMENT CENTER MADE TRUSTEE, WHEN, DUTIES — TERMINATION OF ASSIGNMENT, EFFECT OF. — 1. For the purposes of this section, the term "IV-A agency" shall mean:

(1) An agency that has been designated by a state to administer programs pursuant to Title IV-A of the Social Security Act;

(2) An agency that has been designated by a state to administer programs pursuant to Title IV-D of the Social Security Act; or

(3) Any other entity entitled to receive and disburse child support payments in that state.

2. When a court has ordered support payments to a person who has made an assignment of support rights to the **family support** division **[**of family services**]** or the IV-A agency of another state on behalf of this or such other state, the **family support** division **[**of child support enforcement**]** shall notify the court.

(1) Until October 1, 1999, upon such notice, the court shall order all support payments to be made to the clerk of the court as trustee for the division of family services or the other state's IV-A agency, whichever is appropriate, as assignee of the support rights. The clerk shall forward all support payments to the department of social services, which payments have been identified by the department for deposit in the appropriate fund within the state treasury when assignments have been made to the division of family services. The clerk shall forward support payments to the other state's IV-D agency when assignments have been made to that state's IV-A agency. Notification to the court by the division of child support enforcement of the assignment of support rights shall, in and of itself, authorize the court to make the clerk trustee, notwithstanding any provision of any existing court order, statute, or other law to the contrary, and the court need not hold a hearing on the matter. The amount of the obligation owed to this state or the other state's IV-A agency shall be the amount specified in a court order which covers the assigned rights. The clerk shall keep an accurate record of such orders and such payments and shall note such assignment in the case file in such a manner as to make the fact of the assignment easily discernible.

(2) Effective October 1, 1999, support payments are to be made to the payment center pursuant to section 454.530 as trustee for the **family support** division **[**of family services**]** or other state's IV-A agency, whichever is appropriate, as assignee of the support rights. The payment center shall forward all support payments to the state, which payments have been identified by the **family support** division **[**of child support enforcement**]** for deposit in the appropriate fund within the state treasury when assignments have been made to the **family support** division **[**of family services**]**. The payment center shall forward support payments to the other state's IV-D agency when assignments have been made to that state's IV-A agency. Notification to the court by the **family support** division **[**of child support enforcement**]** of the assignment of support rights shall, in and of itself, make the payment center trustee, notwithstanding any provision of any existing court order or state law to the contrary, and the court shall not be required to hold a hearing on the matter. The amount of the obligation owed to this state or the other state's IV-A agency shall be the amount specified in a court order which covers the assigned rights. The payment center shall keep an accurate record of such orders and payments.

3. (1) Upon termination of the assignment for any case in which payments are not to be made to the payment center pursuant to section 454.530, the clerk of the court shall continue as trustee for the **family support** division **[**of family services**]** or the other state's IV-A agency for any accrued unpaid support at the time of the termination and as trustee for the obligee for any support becoming due after the termination. If there has been an assignment to the **family support** division **[**of family services**]** and there is no current assignment to another state's IV-A

agency, the clerk of the court shall forward to the obligee all payments for support accruing subsequent to the termination and shall forward to the department of social services all payments for support which had accrued and were unpaid at the time of the termination. If there has been an assignment to another state's IV-A agency and there is no current assignment to the **family support** division **[**of family services**]**, the clerk of the court shall continue to forward to that state's IV-D agency all payments for support accruing subsequent to the termination of the assignment as well as all payments for support which had accrued and were unpaid at the time of the termination. When there has been an assignment to the **family support** division **[**of family services**]**, the clerk of the court shall apply payments first to support which has accrued subsequent to the termination, to the extent thereof, and then to support which accrued prior to termination, except such payments collected by the **family support** division **[**of child support enforcement**]** through debt setoff or legal process shall be forwarded to the department of social services, unless the department of social services directs otherwise. After termination of the assignment, the trusteeship may be dissolved upon motion of a party after notice and hearing on behalf of all parties to the proceeding or pursuant to subsections 3 to 7 of section 454.430. Prior to termination of the assignment, no motion may be filed, nor maintained, for the purpose of terminating or abating any trusteeship in favor of the **family support** division **[**of family services**]** or another state's IV-A agency.

(2) Effective October 1, 1999, upon termination of the assignment for any case in which payments are to be made to the payment center pursuant to section 454.530, the payment center shall continue as trustee for the **family support** division **[**of family services**]** or the other state's IV-A agency for any accrued unpaid support at the time of the termination and as trustee for the obligee for any support coming due after the termination. If there has been an assignment to the **family support** division **[**of family services**]** and there is no current assignment to another state's IV-A agency, the payment center shall forward to the obligee all payments for support which accrue after the termination and shall forward to the **family support** division **[**of child support enforcement**]** all payments for support which had accrued and were unpaid at the time of termination. If there has been an assignment to another state's IV-A agency and there is no current assignment to the **family support** division **[**of family services**]**, the payment center shall continue to forward to that state's IV-D agency all payments for support which accrue after the termination of the assignment as well as all payments for support which had accrued and were unpaid at the time of termination. If there has been an assignment to the **family support** division **[**of family services**]**, the payment center shall apply payments first to support which accrues after the termination, to the extent thereof, and then to support which accrued prior to termination; except that such payments collected by the **family support** division **[**of child support enforcement**]** through debt setoff or legal process shall be forwarded to the **family support** division **[**of child support enforcement**]**, unless the division directs otherwise. After termination of the assignment, the trusteeship may be dissolved upon motion of a party after notice and hearing on behalf of all parties to the proceeding or pursuant to subsections 3 to 7 of section 454.430. Prior to termination of the assignment, no motion shall be filed or maintained for the purpose of terminating or abating any trusteeship in favor of the **family support** division **[**of family services**]** or another state's IV-A agency.

4. For purposes of this section, "assignment" includes an assignment to the state by a person who has applied or is receiving assistance under a program funded pursuant to Part A of Title IV or Title XIX of the Social Security Act.

454.420. LEGAL ACTIONS TO ESTABLISH OR ENFORCE SUPPORT OBLIGATIONS, BROUGHT, BY WHOM, PROCEDURE — ASSIGNMENT TO DIVISION TERMINATES, WHEN, EFFECT — MONEY COLLECTED, WHERE DEPOSITED. — Any legal action necessary to establish or enforce support obligations owed to the state shall be brought by prosecuting attorneys, or other attorneys under cooperative agreement with the **family support** division **[**of child support enforcement**]**, upon being furnished notice by the division of such obligation. If the amount of

the support obligation owed to the state has not been determined because no court order exists, the **family support** division **[**of child support enforcement**]** may refer the case to the appropriate prosecuting attorney, or other attorney under cooperative agreement with the division, for establishment and enforcement of a support order or order for reimbursement. When a recipient is no longer eligible for aid to families with dependent children benefits, the assignment shall terminate, unless the recipient and the **family support** division **[**of child support enforcement**]** agree otherwise, except for those unpaid support obligations still owing to the state under the assignment at the time of the discontinuance of aid. Upon referral from the **family support** division **[**of child support enforcement**]**, such unpaid obligations shall be collected by the prosecuting attorney, or other attorney under cooperative agreement with the division, up to the amount of unreimbursed aid paid by the **family support** division **[**of family services**]** prior to or after execution of the assignment of support rights. Moneys collected pursuant to this section shall be paid to the department of social services for deposit in the child support enforcement fund in the state treasury.

454.425. SUPPORT ENFORCEMENT SERVICES BY DIVISION, WHEN, FOR WHOM — FEES, WHEN ALLOWED. — The **family support** division **[**of child support enforcement**]** shall render child support services authorized pursuant to this chapter to persons who are not recipients of public assistance as well as to such recipients. Services may be provided to children, custodial parents, noncustodial parents and other persons entitled to receive support. An application may be required by the division for services and fees may be charged by the division pursuant to 42 U.S.C. Section 654 and federal regulations. Services provided under a state plan shall be made available to residents of other states on the same terms as residents of this state. If a family receiving services ceases to receive assistance under a state program funded under Part A of Title IV of the Social Security Act, the division shall provide appropriate notice to such family, and services shall continue under the same terms and conditions as that provided to other individuals under the state plan, except that an application for continued services shall not be required and the requirement for payment of fees shall not apply to the family.

454.430. IV-D AGENCY, DEFINED — CLERK OF COURT OR FAMILY SUPPORT PAYMENT CENTER TO SERVE AS TRUSTEE, WHEN, DUTIES — TERMINATION OF TRUSTEE RESPONSIBILITIES BY DIVISION, PROCEDURE. — 1. For the purposes of this section, the term "IV-D agency" means an agency that has been designated by a state to administer programs pursuant to Title IV-D of the Social Security Act or any other entity entitled to receive and disburse child support payments in that state.

2. When a court has ordered support payments to a person who is receiving child support services pursuant to section 454.425, or pursuant to application for IV-D agency services in another state, the **family support** division **[**of child support enforcement**]** shall so notify the court. Until October 1, 1999, upon such notice the court shall order all support payments to be made to the clerk of the court as trustee for such person. The notification to the court by the division shall, in and of itself, authorize the court to make the clerk trustee, notwithstanding any provision of any existing court order, statute, or other law to the contrary, and the court need not hold a hearing on the matter. The clerk shall keep an accurate record of such orders and such payments, and shall report all such collections to the division in the manner specified by the division. The circuit clerk shall forward all such payments to the person receiving child support services pursuant to section 454.425, or to the IV-D agency in the state in which the person is currently receiving IV-D services, as appropriate. Effective October 1, 1999, upon notice by the division, all support payments shall be made to the payment center pursuant to section 454.530 as trustee for such person. The notification by the division shall, in and of itself, authorize the payment center pursuant to section 454.530 to be trustee, notwithstanding any provision of any existing court order or state law to the contrary, and the court shall not be required to hold a hearing on the matter. The payment center shall keep an accurate record of such orders and

payments, and shall report all such collections to the division in a manner specified by the division. The payment center shall forward all such payments to the person receiving child support services pursuant to section 454.425 or to the IV-D agency in the state in which the person is currently receiving IV-D services, as appropriate.

3. The division is authorized to terminate trusteeship responsibilities for future support in IV-D cases pursuant to the procedures set forth in this section. If the division determines that the order no longer provides a continuing obligation for support or the custodial party is no longer receiving child support enforcement services, the division shall send a notice of its intent to terminate the trusteeship by regular mail to the custodial and noncustodial parties. The notice shall advise each party that unless written objection is received by the division within fifteen days of the date the notice is sent, the trusteeship for current support shall be terminated. Unless a party objects to the termination of the trusteeship in writing within the specified period, the division shall terminate the trusteeship for current support.

4. If an objection is filed by either party to the case, the trusteeship may be terminated for future support only upon the filing of a motion with the court in which the trusteeship is established and after notice to all parties and hearing on the motion.

5. If the requirements of subsection 3 of this section have been met, the trusteeship responsibilities for future support shall terminate. The trusteeship shall remain in effect only to the extent that payments are made to satisfy any accrued unpaid support that was due as of the date of the notice. The notice shall, in and of itself, terminate the trusteeship responsibilities for future support, and the court need not hold a hearing on the matter.

6. Any party whose trusteeship is terminated pursuant to this section may reopen a trusteeship pursuant to section 452.345.

7. Termination of a trusteeship pursuant to this section shall not, in and of itself, constitute a judicial determination as to the rights of a party to receive support or the obligation of a party to pay support pursuant to a support order entered in the case.

454.432. CIRCUIT CLERK, RECORDING OF CREDITS FOR AMOUNTS NOT RECEIVED, RESTRICTIONS, CREDITS ON STATE DEBT FOR JOB TRAINING AND EDUCATION, CONDITIONS AND RESTRICTIONS. — 1. The circuit clerk in a case that is not a IV-D case or the division in a IV-D case shall record credits on the automated child support system records established pursuant to this chapter or chapter 452 for amounts not received by the clerk or the division.

2. Credits allowed pursuant to this section shall include, but not be limited to, in-kind payments as provided in this section, amounts collected from an obligor from federal and state income tax refunds, state lottery payments, Social Security payments, unemployment and workers' compensation benefits, income withholdings authorized by law, liens, garnishment actions, abatements pursuant to section 452.340, and any other amounts required to be credited by statute or case law.

3. Credits shall be recorded on the trusteeship record for payments received by the **family support** division **[**of child support enforcement**]** and, at the discretion of the **family support** division **[**of child support enforcement**]**, and upon receipt of waivers requested pursuant to subsection 4 of this section, credits may be given on state debt judgments obtained pursuant to subsection 1 of section 454.465 for completion of such activities as job training and education, if mutually agreed upon by the division and the obligor. The circuit clerk shall make such credits upon receipt of paper or electronic notification of the amount of the credit from the division. The division may record the credit or adjust the records to reflect payments and disbursements shown on the trusteeship record when the trusteeship record is contained or maintained in the automated child support system established in this chapter.

4. The director of the department of social services shall apply to the United States Secretary of Health and Human Services for all waivers of requirements pursuant to federal law necessary to implement the provisions of subsection 3 of this section.

5. Credits shall be entered on the automated child support system for direct and in-kind payments received by the custodial parent when the custodial parent files an affidavit stating the particulars of the direct and in-kind payments to be credited on the court record with the circuit clerk; however, no such credits shall be entered for periods during which child support payments are assigned to the state pursuant to law. Such credits may include, but shall not be limited to, partial and complete satisfaction of judgment for support arrearages.

6. Nothing contained in this section shall prohibit satisfaction of judgment as provided for in sections 511.570 to 511.620 and by supreme court rule.

7. Application for the federal earned income tax credit shall, when applicable, be required as a condition of participating in the alternative child support credit programs of subsection 3 of this section.

454.433. ORDER OF FOREIGN COURTS, NOTIFICATION BY DIVISION, DUTIES OF CIRCUIT CLERK — CLERK OR FAMILY SUPPORT PAYMENT CENTER TRUSTEE, DUTY TO KEEP RECORDS. — 1. When a tribunal of another state as defined in section 454.850 has ordered support payments to a person who has made an assignment of child support rights to the **family support** division **[**of family services**]** or who is receiving child support services pursuant to section 454.425, the **family support** division **[**of child support enforcement**]** may notify the court of this state in the county in which the obligor, obligee or the child resides or works. Until October 1, 1999, upon such notice the circuit clerk shall accept all support payments and remit such payments to the person or entity entitled to receive the payments. Effective October 1, 1999, the division shall order the payment center to accept all support payments and remit such payments to the person or entity entitled to receive the payments.

2. Notwithstanding any provision of law to the contrary, the notification to the court by the division shall authorize the court to make the clerk trustee. The clerk shall keep an accurate record of such payments and shall report all collections to the division in the manner specified by the division. Effective October 1, 1999, the duties of the clerk as trustee pursuant to this section shall terminate and all payments shall be made to the payment center pursuant to section 454.530.

454.435. PROSECUTING ATTORNEYS, COOPERATIVE OR MULTIPLE COUNTY AGREEMENT, DUTIES — OTHER ATTORNEYS MAY PROSECUTE, WHEN. — 1. Each prosecuting attorney may enter into a cooperative agreement or may enter into a multiple county agreement to litigate or prosecute any action necessary to secure support for any person referred to such office by the **family support** division **[**of child support enforcement**]** including, but not limited to, reciprocal actions under this chapter, actions to establish, modify and enforce support obligations, actions to enforce medical support obligations ordered in conjunction with a child support obligation, actions to obtain reimbursement for the cost of medical care provided by the state for which an obligor is liable under subsection 9 of section 208.215, and actions to establish the paternity of a child for whom support is sought. In all cases where a prosecuting attorney seeks the establishment or modification of a support obligation, the prosecuting attorney shall, in addition to periodic monetary support, seek and enforce orders from the court directing the obligated parent to maintain medical insurance on behalf of the child for whom support is sought, which insurance shall, in the opinion of the court, be sufficient to provide adequate medical coverage; or to otherwise provide for such child's necessary medical expenses.

2. In all cases where a prosecuting attorney has entered into a cooperative agreement to litigate or prosecute an action necessary to secure child support, and an information is not filed or civil action commenced within sixty days of the receipt of the referral from the division, the division may demand return of the referral and the case filed and the prosecuting attorney shall return the referral and the case file. The division may then use any other attorney which it employs or with whom it has a cooperative agreement to establish or enforce the support obligation.

3. As used in this section, the term "prosecuting attorney" means, with reference to any city not within a county, the circuit attorney.

4. Prosecuting attorneys are hereby authorized to initiate judicial or administrative modification proceedings on IV-D cases at the request of the division.

454.440. DEFINITIONS — DIVISION MAY USE PARENT LOCATOR SERVICE, WHEN — FINANCIAL ENTITIES TO PROVIDE INFORMATION, WHEN, PENALTY FOR REFUSAL, IMMUNITY — STATEMENT OF ABSENT PARENTS, CONTENTS — PROHIBITED ACTS, PENALTIES — CONFIDENTIALITY OF RECORDS, EXCEPTIONS, PENALTIES. — 1. As used in this section, unless the context clearly indicates otherwise, the following terms mean:

(1) "Business" includes any corporation, partnership, association, individual, and labor or other organization including, but not limited to, a public utility or cable company;

(2) "Division", the Missouri **family support** division **[**of child support enforcement**]** of the department of social services;

(3) "Financial entity" includes any bank, trust company, savings and loan association, credit union, insurance company, or any corporation, association, partnership, or individual receiving or accepting money or its equivalent on deposit as a business;

(4) "Government agency", any department, board, bureau or other agency of this state or any political subdivision of the state;

(5) "Information" includes, but is not necessarily limited to, the following items:

(a) Full name of the parent;

(b) Social Security number of the parent;

(c) Date of birth of the parent;

(d) Last known mailing and residential address of the parent;

(e) Amount of wages, salaries, earnings or commissions earned by or paid to the parent;

(f) Number of dependents declared by the parent on state and federal tax information and reporting forms;

(g) Name of company, policy numbers and dependent coverage for any medical insurance carried by or on behalf of the parent;

(h) Name of company, policy numbers and cash values, if any, for any life insurance policies or annuity contracts, carried by or on behalf of, or owned by, the parent;

(i) Any retirement benefits, pension plans or stock purchase plans maintained on behalf of, or owned by, the parent and the values thereof, employee contributions thereto, and the extent to which each benefit or plan is vested;

(j) Vital statistics, including records of marriage, birth or divorce;

(k) Tax and revenue records, including information on residence address, employer, income or assets;

(l) Records concerning real or personal property;

(m) Records of occupational, professional or recreational licenses or permits;

(n) Records concerning the ownership and control of corporations, partnerships or other businesses;

(o) Employment security records;

(p) Records concerning motor vehicles;

(q) Records of assets or liabilities;

(r) Corrections records;

(s) Names and addresses of employers of parents;

(t) Motor vehicle records; and

(u) Law enforcement records;

(6) "Parent", a biological or adoptive parent, including a presumed or putative father. The word parent shall also include any person who has been found to be such by:

(a) A court of competent jurisdiction in an action for dissolution of marriage, legal separation, or establishment of the parent and child relationship;

(b) The division under section 454.485;
(c) Operation of law under section 210.823; or
(d) A court or administrative tribunal of another state.

2. For the purpose of locating and determining financial resources of the parents relating to establishment of paternity or to establish, modify or enforce support orders, the division or other state IV-D agency may request and receive information from the federal Parent Locator Service, from available records in other states, territories and the District of Columbia, from the records of all government agencies, and from businesses and financial entities. A request for information from a public utility or cable television company shall be made by subpoena authorized pursuant to this chapter. The government agencies, businesses, and financial entities shall provide information, if known or chronicled in their business records, notwithstanding any other provision of law making the information confidential. In addition, the division may use all sources of information and available records and, pursuant to agreement with the secretary of the United States Department of Health and Human Services, or the secretary's designee, request and receive from the federal Parent Locator Service information pursuant to 42 U.S.C. Sections 653 and 663, to determine the whereabouts of any parent or child when such information is to be used to locate the parent or child to enforce any state or federal law with respect to the unlawful taking or restraining of a child, or of making or enforcing a child custody or visitation order.

3. Notwithstanding the provisions of subsection 2 of this section, no financial entity shall be required to provide the information requested by the division or other state IV-D agency unless the division or other state IV-D agency alleges that the parent about whom the information is sought is an officer, agent, member, employee, depositor, customer or the insured of the financial institution, or unless the division or other state IV-D agency has complied with the provisions of section 660.330.

4. Any business or financial entity which has received a request from the division or other state IV-D agency as provided by subsections 2 and 3 of this section shall provide the requested information or a statement that any or all of the requested information is not known or available to the business or financial entity, within sixty days of receipt of the request and shall be liable to the state for civil penalties up to one hundred dollars for each day after such sixty-day period in which it fails to provide the information so requested. Upon request of the division or other state IV-D agency, the attorney general shall bring an action in a circuit court of competent jurisdiction to recover the civil penalty. The court shall have the authority to determine the amount of the civil penalty to be assessed.

5. Any business or financial entity, or any officer, agent or employee of such entity, participating in good faith in providing information requested pursuant to subsections 2 and 3 of this section shall be immune from liability, civil or criminal, that might otherwise result from the release of such information to the division.

6. Upon request of the division or other state IV-D agency, any parent shall complete a statement under oath, upon such form as the division or other state IV-D agency may specify, providing information, including, but not necessarily limited to, the parent's monthly income, the parent's total income for the previous year, the number and name of the parent's dependents and the amount of support the parent provides to each, the nature and extent of the parent's assets, and such other information pertinent to the support of the dependent as the division or other state IV-D agency may request. Upon request of the division or other state IV-D agency, such statements shall be completed annually. Failure to comply with this subsection is a class A misdemeanor.

7. The disclosure of any information provided to the business or financial entity by the division or other state IV-D agency, or the disclosure of any information regarding the identity of any applicant for or recipient of public assistance, by an officer or employee of any business or financial entity, or by any person receiving such information from such employee or officer is prohibited. Any person violating this subsection is guilty of a class A misdemeanor.

8. Any person who willfully requests, obtains or seeks to obtain information pursuant to this section under false pretenses, or who willfully communicates or seeks to communicate such information to any agency or person except pursuant to this chapter, is guilty of a class A misdemeanor.

9. For the protection of applicants and recipients of services pursuant to sections 454.400 to 454.645, all officers and employees of, and persons and entities under contract to, the state of Missouri are prohibited, except as otherwise provided in this subsection, from disclosing any information obtained by them in the discharge of their official duties relative to the identity of applicants for or recipients of services or relating to proceedings or actions to establish paternity or to establish or enforce support, or relating to the contents of any records, files, papers and communications, except in the administration of the child support program or the administration of public assistance, including civil or criminal proceedings or investigations conducted in connection with the administration of the child support program or the administration of public assistance. Such officers, employees, persons or entities are specifically prohibited from disclosing any information relating to the location of one party to another party:

(1) If a protective order has been entered against the other party; or

(2) If there is reason to believe that such disclosure of information may result in physical or emotional harm to the other party.

In any judicial proceedings, except such proceedings as are directly concerned with the administration of these programs, such information obtained in the discharge of official duties relative to the identity of applicants for or recipients of child support services or public assistance, and records, files, papers, communications and their contents shall be confidential and not admissible in evidence. Nothing in this subsection shall be construed to prohibit the circuit clerk from releasing information, not otherwise privileged, from court records for reasons other than the administration of the child support program, if such information does not identify any individual as an applicant for or recipient of services pursuant to sections 454.400 to 454.645. Anyone who purposely or knowingly violates this subsection is guilty of a class A misdemeanor.

454.445. FEES FOR CERTAIN ACTIONS AND DOCUMENTS, DIVISION NOT REQUIRED TO PAY. — No deposit or other filing fee, court fee, library fee, or fee for making copies of documents shall be required to be paid by the **family support** division **[**of child support enforcement**]**, or any attorney bringing action pursuant to a referral by the **family support** division **[**of child support enforcement**]**, by any circuit clerk or other county or state officer for the filing of any action or document necessary to establish paternity, or to establish, modify or enforce a child support obligation.

454.450. SUPPORT MONEY OWED STATE DUE, WHEN, FAILURE TO PAY WITHIN TIME LIMIT, RIGHTS OF FAMILY SERVICES — AGREEMENTS FOR COLLECTION OF SUPPORT, INVALID, WHEN, FEE ALLOWED PERSON MAKING COLLECTION, WHEN, AMOUNT — DEPRIVING DIVISION OF SUPPORT PAYMENTS, PENALTY. — 1. Whenever a custodian of a child, or other person, receives support moneys paid to him or her, which moneys are paid in whole or in part in satisfaction of a support obligation which is owed to the **family support** division **[**of family services pursuant to**]** **under** subsection 2 of section 454.465, or which has been assigned to the **family support** division **[**of family services pursuant to**]** **under** subsection 2 of section 208.040, the moneys shall be remitted to the department of social services within ten days of receipt by such custodian or other person. If not so remitted, such custodian or other person shall be indebted to the department in an amount equal to the amount of the support money received and not remitted. By not paying over the moneys to the department, such custodian or other person is deemed, without the necessity of signing any document, to have made an irrevocable assignment to the **family support** division **[**of family services**]** of any support delinquency owed which is not already assigned to the **family support** division **[**of

family services**]** or to any support delinquency which may accrue in the future in an amount equal to the amount of the support money retained. The department may utilize any available administrative or legal process to collect the assigned delinquency to effect recoupment and satisfaction of the debt incurred by reason of the failure of such custodian or other person to remit. The department is also authorized to make a setoff to effect satisfaction of the debt by deduction from support moneys in its possession or in the possession of any clerk of the court or other forwarding agent which would otherwise be payable to such custodian or other person for the satisfaction of any support delinquency. Nothing in this section authorizes the department to make a setoff as to current support paid during the month for which the payment is due and owing.

2. A custodian of a child, or other person, who has made an assignment of support rights to the **family support** division **[**of family services,**]** shall not make any agreement with any private attorney or other person regarding the collection of assigned support obligations without approval of the department of social services. If any private attorney or other person who in good faith and without knowledge of such assignment collects all or part of the assigned support obligations, any agreement regarding the distribution of the proceeds of the assigned support obligations by such private attorney or other person shall not bind the department; provided, however, the department shall be liable to such private attorney or other person for a fee computed in accordance with subsection 3 of this section. When a private attorney or other person has begun to collect a support obligation, and thereafter a notice of assignment of support rights to the division is filed with the court pursuant to section 454.415, notice of such assignment shall be given to that attorney or other person as provided by supreme court rule 43.01.

3. (1) Where an assignment of support rights has been made to the **family support** division **[**of family services**]** but notice of such assignment was not filed with the court pursuant to section 454.415, a private attorney who in good faith and without knowledge of such assignment collects all or part of such assigned support obligation shall be awarded by the department a fee of twenty-five percent of the support obligation collected. Such fees shall be paid out of state funds in lieu of federal funds.

(2) Where an assignment of support rights has been made to the **family support** division **[**of family services**]** and notice of the assignment was not filed with the court pursuant to section 454.415 until after the private attorney has begun collection proceedings, a private attorney who collects assigned support obligations shall be awarded a fee, as the court shall determine, based upon the time expended, but in no event shall the fee exceed twenty-five percent of the support obligation collected.

(3) Where no assignment of support rights has been made to the **family support** division **[**of family services**]** until after the private attorney has collected any part of the support obligation, no recoupment shall be had by the department of the portion collected, and the fee awarded to the private attorney or other person shall be the fee negotiated between the client and the private attorney or other person.

4. A person commits the crime of stealing, as defined by section 570.030, if **[**he**]** **such person** takes, obtains, uses, transfers, conceals, or retains possession of child support payments which have been assigned to the **family support** division **[**of family services**]** with the purpose to deprive the division thereof, either without the consent of the division or by means of deceit or coercion.

454.455. ASSIGNMENTS BY CARETAKER RELATIVES, TERMINATE, WHEN, EXCEPTIONS — CARETAKER RELATIVE DEFINED. — 1. In any case wherein an order for child support has been entered and the legal custodian and obligee pursuant to the order relinquishes physical custody of the child to a caretaker relative without obtaining a modification of legal custody, and the caretaker relative makes an assignment of support rights to the **family support** division **[**of family services**]** in order to receive aid to families with dependent children benefits, the

relinquishment and the assignment, by operation of law, shall transfer the child support obligation pursuant to the order to the division in behalf of the state. The assignment shall terminate when the caretaker relative no longer has physical custody of the child, except for those unpaid support obligations still owing to the state pursuant to the assignment at that time.

2. As used in subsection 1 of this section, the term "caretaker relative" includes only those persons listed in subdivision (2) of subsection 1 of section 208.040.

3. If an order for child support has been entered, no assignment of support has been made, and the legal custodian and obligee under the order relinquishes physical custody of the child to a caretaker relative without obtaining a modification of legal custody, or the child is placed by the court in the legal custody of a state agency, the division may, thirty days after the transfer of custody and upon notice to the obligor and obligee, direct the obligor or other payer to change the payee to the caretaker relative or appropriate state agency. An order changing the payee to a caretaker relative shall terminate when the caretaker relative no longer has physical custody of the child, or the state agency is relieved of legal custody, except for the unpaid support obligations still owed to the caretaker relative or the state.

4. If there has been an assignment of support to an agency or division of the state or a requirement to pay through a state disbursement unit, the division may, upon notice to the obligor and obligee, direct the obligor or other payer to change the payee to the appropriate state agency.

454.460. DEFINITIONS. — As used in sections 454.400 to 454.560, unless the context clearly indicates otherwise, the following terms mean:

(1) "Court", any circuit court of this state and any court or agency of any other state having jurisdiction to determine the liability of persons for the support of another person;

(2) "Court order", any judgment, decree, or order of any court which orders payment of a set or determinable amount of support money;

(3) "Department", the department of social services of the state of Missouri;

(4) "Dependent child", any person under the age of twenty-one who is not otherwise emancipated, self-supporting, married, or a member of the Armed Forces of the United States;

(5) "Director", the director of the **family support** division **[**of child support enforcement**]**, or the director's designee;

(6) "Division", the **family support** division **[**of child support enforcement**]** of the department of social services of the state of Missouri;

(7) "IV-D agency", an agency designated by a state to administer programs under Title IV-D of the Social Security Act;

(8) "IV-D case", a case in which services are being provided pursuant to section 454.400;

(9) "Obligee", any person, state, or political subdivision to whom or to which a duty of support is owed as determined by a court or administrative agency of competent jurisdiction;

(10) "Obligor", any person who owes a duty of support as determined by a court or administrative agency of competent jurisdiction;

(11) "Parent", a biological or adoptive parent, including a presumed or putative father. The word parent shall also include any person who has been found to be such by:

(a) A court of competent jurisdiction in an action for dissolution of marriage, legal separation, or establishment of the parent and child relationship;

(b) The division under section 454.485;

(c) Operation of law under section 210.823; or

(d) A court or administrative tribunal of another state;

(12) "Public assistance", any cash or benefit pursuant to Part IV-A, Part IV-B, Part IV-E, or Title XIX of the federal Social Security Act paid by the department to or for the benefit of any dependent child or any public assistance assigned to the state;

(13) "State", any state or political subdivision, territory or possession of the United States, District of Columbia, and the Commonwealth of Puerto Rico;

(14) "Support order", a judgment, decree or order, whether temporary, final or subject to modification, issued by a court or administrative agency of competent jurisdiction for the support and maintenance of a child, including a child who has attained the age of majority pursuant to the law of the issuing state, or of the parent with whom the child is living and providing monetary support, health care, child care, arrearages or reimbursement for such child, and which may include related costs and fees, interest and penalties, income withholding, attorneys' fees and other relief.

454.465. STATE DEBT, DEFINED, CALCULATION — RIGHTS OF DIVISION REGARDING STATE DEBTS — SERVICE OF PROCESS, PROCEDURE. — 1. For purposes of sections 454.460 to 454.505, a payment of public assistance by the **family support** division **[**of family services**]** to or for the benefit of any dependent child, including any payment made for the benefit of the caretaker of the child, creates an obligation, to be called "state debt", which is due and owing to the department by the parent, or parents, absent from the home where the dependent child resided at the time the public assistance was paid. The amount of the state debt shall be determined as follows:

(1) Where there exists a court order directed to a parent which covers that parent's support obligation to a dependent during a period in which the **family support** division **[**of family services**]** provided public assistance to or for the benefit of that dependent, the state debt of that parent shall be an amount equal to the obligation ordered by the court, including arrearages and unpaid medical expenses, up to the full amount of public assistance paid; or

(2) Where no court order covers a parent's support obligation to a dependent during a period in which the **family support** division **[**of family services**]** provided public assistance to or for the benefit of that dependent, the state debt may be set or reset by the director in an amount not to exceed the amount of public assistance so provided by the **family support** division **[**of family services**]**.

2. No agreement between any obligee and any obligor regarding any duty of support, or responsibility therefor, or purporting to settle past, present, or future support obligations either as settlement or prepayment shall act to reduce or terminate any rights of the division to recover from that obligor for public assistance provided.

3. The division shall have the right to make a motion to a court or administrative tribunal for modification of any court order creating a support obligation which has been assigned to the **family support** division **[**of family services**]** to the same extent as a party to that action.

4. The department, or any division thereof, as designated by the department director is hereby authorized to promulgate such rules pursuant to section 454.400 and chapter 536 as may be necessary to carry out the provisions of this chapter and the requirements of the federal Social Security Act, including, but not necessarily limited to, the opportunity for a hearing to contest an order of the division establishing or modifying support rules for narrowing issues and simplifying the methods of proof at hearings, and establishing procedures for notice and the manner of service to be employed in all proceedings and remedies instituted pursuant to sections 454.460 to 454.505.

5. Service pursuant to sections 454.460 to 454.505 may be made on the parent or other party in the manner prescribed for service of process in a civil action, by an authorized process server appointed by the director, or by certified mail, return receipt requested. The director may appoint any uninterested party, including, but not necessarily limited to, employees of the division, to serve such process. For the purposes of this subsection, a parent who refuses receipt of service by certified mail is deemed to have been served.

6. Creation of or exemption from a state debt pursuant to this section shall not limit any rights which the department has or may obtain pursuant to common or statutory law, including, but not limited to, those obtained pursuant to an assignment of support rights obtained pursuant to section 208.040.

454.472. NO SUIT MAINTAINED IF CHILD SUPPORT IS CURRENT. — No garnishment, withholding, or other financial legal proceeding under chapter 454 to enforce a support order as defined in section 454.460 shall be levied or maintained by the **family support** division **[**of child support enforcement**]** against a party who alleges that no current or unpaid child support is due if, after review of the allegations and evidence, the division determines that no current or unpaid child support is due. The enforcement action may continue pending a review by the division, and the division may only levy an enforcement action if current or unpaid support should later become due and owing. The division shall advise a party to a support obligation being enforced by the division of the amount currently due under the support order and how that amount was calculated upon request.

454.478. SUMMARY OF EXPENSES REQUIRED, WHEN. — In cases where an administrative order is entered pursuant to the provisions of section 454.470 or section 454.476, the director of the **family support** division **[**of child support enforcement**]** may, upon petition of the party obligated to pay support and upon good cause shown, order the recipient to furnish the party obligated to pay support with a regular summary of expenses paid by such parent on behalf of the child. The director shall prescribe the form and substance of the summary.

454.490. ORDERS ENTERED BY DIRECTOR, DOCKETING OF, EFFECT. — 1. A true copy of any order entered by the director pursuant to sections 454.460 to 454.997, along with a true copy of the return of service, may be filed with the clerk of the circuit court in the county in which the judgment of dissolution or paternity has been entered, or if no such judgment was entered, in the county where either the parent or the dependent child resides or where the support order was filed. Upon filing, the clerk shall enter the order in the judgment docket. Upon docketing, the order shall have all the force, effect, and attributes of a docketed order or decree of the circuit court, including, but not limited to, lien effect and enforceability by supplementary proceedings, contempt of court, execution and garnishment. Any administrative order or decision of the **family support** division **[**of child support enforcement**]** filed in the office of the circuit clerk of the court shall not be required to be signed by an attorney, as provided by supreme court rule of civil procedures 55.03(a), or required to have any further pleading other than the director's order.

2. In addition to any other provision to enforce an order docketed pursuant to this section or any other support order of the court, the court may, upon petition by the division, require that an obligor who owes past due support to pay support in accordance with a plan approved by the court, or if the obligor is subject to such plan and is not incapacitated, the court may require the obligor to participate in work activities.

3. In addition to any other provision to enforce an order docketed pursuant to this section or any other support order of the court, division or other IV-D agency, the director may order that an obligor who owes past due support to pay support in accordance with a plan approved by the director, or if the obligor is subject to such plan and is not incapacitated, the director may order the obligor to participate in work activities. The order of the director shall be filed with a court pursuant to subsection 1 of this section and shall be enforceable as an order of the court.

4. As used in this section, "work activities" include:

(1) Unsubsidized employment;

(2) Subsidized private sector employment;

(3) Subsidized public sector employment;

(4) Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available;

(5) On-the-job training;

(6) Job search and readiness assistance;

(7) Community services programs;

(8) Vocational educational training, not to exceed twelve months for any individual;

(9) Job skills training directly related to employment;

(10) Education directly related to employment for an individual who has not received a high school diploma or its equivalent;

(11) Satisfactory attendance at a secondary school or course of study leading to a certificate of general equivalence for an individual who has not completed secondary school or received such a certificate; or

(12) The provision of child care services to an individual who is participating in a community service program.

454.495. CIRCUIT CLERK OR FAMILY SUPPORT PAYMENT CENTER MADE TRUSTEE, WHEN, DUTIES — ASSIGNMENT, DEFINED. — 1. Until October 1, 1999, when an administrative order has been docketed pursuant to section 454.490, the court shall order all support payments to be made to the circuit clerk as trustee for the division of family services or other person entitled to receive such payments pursuant to the order. The filing of such order by the director shall in and of itself authorize the court to make the circuit clerk the trustee, notwithstanding any existing court order, statute, or other law to the contrary, and the court need not hold a hearing on the matter. The circuit clerk shall:

(1) Forward all such payments to the department or other person entitled to receive such payments pursuant to the order;

(2) Keep an accurate record of the orders and the payments; and

(3) Report all such collections to the department in the manner specified by the department.

2. Effective October 1, 1999, and if an administrative order has been docketed pursuant to section 454.490, the payment center pursuant to section 454.530 shall be trustee for the **family support** division **[**of family services**]** or other person entitled to receive such payments pursuant to the order. The order by the director shall, in and of itself, authorize the payment center to be the trustee, notwithstanding any existing court order or state law to the contrary, and the court shall not be required to hold a hearing on the matter. The payment center shall:

(1) Forward all such payments to the department or other person entitled to receive such payments pursuant to the order;

(2) Keep an accurate record of the orders and payments; and

(3) Report all such collections to the division in the manner specified by the division.

3. As used in this section, "assignment" includes an assignment to the state by a person who has applied for or is receiving assistance under a program funded pursuant to Part A of Title IV or Title XIX of the Social Security Act.

454.496. MOTION TO MODIFY ORDER, REVIEW — FORM OF MOTION, SERVICE, PROCEDURE — EFFECTIVE, WHEN — VENUE FOR JUDICIAL REVIEW OF ADMINISTRATIVE ORDER, PROCEDURE. — 1. At any time after the entry of a court order for child support in a case in which support rights have been assigned to the state pursuant to section 208.040, or a case in which support enforcement services are being provided pursuant to section 454.425, the obligated parent, the obligee or the **family support** division **[**of child support enforcement**]** may file a motion to modify the existing child support order pursuant to this section, if a review has first been completed by the director of **[**child support enforcement pursuant to**] the family support division under** subdivision (13) of subsection 2 of section 454.400. The motion shall be in writing in a form prescribed by the director, shall set out the reasons for modification and shall state the telephone number and address of the moving party. The motion shall be served in the same manner provided for in subsection 5 of section 454.465 upon the obligated parent, the obligee and the division, as appropriate. In addition, if the support rights are held by the **family support** division **[**of family services**]** on behalf of the state, the moving party shall mail a true copy of the motion by certified mail to the person having custody of the dependent child at the last known address of that person. The party against whom the motion is made shall have thirty days either to resolve the matter by stipulated agreement or to serve the moving party and the director, as appropriate, by regular mail with a written response setting forth any objections

to the motion and a request for hearing. When requested, the hearing shall be conducted pursuant to section 454.475 by hearing officers designated by the department of social services. In such proceedings, the hearing officers shall have the authority granted to the director pursuant to subsection 6 of section 454.465.

2. When no objections and request for hearing have been served within thirty days, the director, upon proof of service, shall enter an order granting the relief sought. Copies of the order shall be mailed to the parties within fourteen days of issuance.

3. A motion to modify made pursuant to this section shall not stay the director from enforcing and collecting upon the existing order unless so ordered by the court in which the order is docketed.

4. The only support payments which may be modified are payments accruing subsequent to the service of the motion upon all parties to the motion.

5. The party requesting modification shall have the burden of proving that a modification is appropriate pursuant to the provisions of section 452.370.

6. Notwithstanding the provisions of section 454.490 to the contrary, an administrative order modifying a court order is not effective until the administrative order is filed with and approved by the court that entered the court order. The court may approve the administrative order if no party affected by the decision has filed a petition for judicial review pursuant to sections 536.100 to 536.140. After the thirty-day time period for filing a petition of judicial review pursuant to chapter 536 has passed, the court shall render its decision within fifteen days. If the court finds the administrative order should be approved, the court shall make a written finding on the record that the order complies with section 452.340 and applicable supreme court rules and approve the order. If the court finds that the administrative order should not be approved, the court shall set the matter for trial de novo.

7. If a petition for judicial review is filed, the court shall review all pleadings and the administrative record, as defined in section 536.130, pursuant to section 536.140. After such review, the court shall determine if the administrative order complies with section 452.340 and applicable supreme court rules. If it so determines, the court shall make a written finding on the record that the order complies with section 452.340 and applicable supreme court rules and approve the order or, if after review pursuant to section 536.140 the court finds that the administrative order does not comply with supreme court rule 88.01, the court may select any of the remedies set forth in subsection 5 of section 536.140. The court shall notify the parties and the division of any setting pursuant to this section.

8. Notwithstanding the venue provisions of chapter 536 to the contrary, for the filing of petitions for judicial review of final agency decisions and contested cases, the venue for the filing of a petition for judicial review contesting an administrative order entered pursuant to this section modifying a judicial order shall be in the court which entered the judicial order. In such cases in which a petition for judicial review has been filed, the court shall consider the matters raised in the petition and determine if the administrative order complies with section 452.340 and applicable supreme court rules. If the court finds that the administrative order should not be approved, the court shall set the matter for trial de novo. The court shall notify the parties and the division of the setting of such proceeding. If the court determines that the matters raised in the petition are without merit and that the administrative order complies with the provisions of section 452.340 and applicable supreme court rules, the court shall approve the order.

454.500. MODIFICATION OF AN ADMINISTRATIVE ORDER, PROCEDURE, EFFECT — RELIEF FROM ORDERS, WHEN. — 1. At any time after the entry of an order pursuant to sections 454.470 and 454.475, the obligated parent, the division, or the person or agency having custody of the dependent child may file a motion for modification with the director. Such motion shall be in writing, shall set forth the reasons for modification, and shall state the address of the moving party. The motion shall be served by the moving party in the manner provided for in subsection 5 of section 454.465 upon the obligated parent or the party holding the support

rights, as appropriate. In addition, if the support rights are held by the **family support** division **[**of family services**]** on behalf of the state, a true copy of the motion shall be mailed by the moving party by certified mail to the person having custody of the dependent child at the last known address of that person. A hearing on the motion shall then be provided in the same manner, and determinations shall be based on considerations set out in section 454.475, unless the party served fails to respond within thirty days, in which case the director may enter an order by default. If the child for whom the order applies is no longer in the custody of a person receiving public assistance or receiving support enforcement services from the department, or a division thereof, pursuant to section 454.425, the director may certify the matter for hearing to the circuit court in which the order was filed pursuant to section 454.490 in lieu of holding a hearing pursuant to section 454.475. If the director certifies the matter for hearing to the circuit court, service of the motion to modify shall be had in accordance with the provisions of subsection 5 of section 452.370. If the director does not certify the matter for hearing to the circuit court, service of the motion to modify shall be considered complete upon personal service, or on the date of mailing, if sent by certified mail. For the purpose of 42 U.S.C. 666(a)(9)(C), the director shall be considered the appropriate agent to receive the notice of the motion to modify for the obligee or the obligor, but only in those instances in which the matter is not certified to circuit court for hearing, and only when service of the motion is attempted on the obligee or obligor by certified mail.

2. A motion for modification made pursuant to this section shall not stay the director from enforcing and collecting upon the existing order pending the modification proceeding unless so ordered by the court.

3. Only payments accruing subsequent to the service of the motion for modification upon all named parties to the motion may be modified. Modification may be granted only upon a showing of a change of circumstances so substantial and continuing as to make the terms unreasonable. In a proceeding for modification of any child support award, the director, in determining whether or not a substantial change in circumstances has occurred, shall consider all financial resources of both parties, including the extent to which the reasonable expenses of either party are, or should be, shared by a spouse or other person with whom he or she cohabits, and the earning capacity of a party who is not employed. If the application of the guidelines and criteria set forth in supreme court rule 88.01 to the financial circumstances of the parties would result in a change of child support from the existing amount by twenty percent or more, then a prima facie showing has been made of a change of circumstances so substantial and continuing as to make the present terms unreasonable.

4. The circuit court may, upon such terms as may be just, relieve a parent from an administrative order entered against that parent because of mistake, inadvertence, surprise, or excusable neglect.

5. No order entered pursuant to section 454.476 shall be modifiable pursuant to this section, except that an order entered pursuant to section 454.476 shall be amended by the director to conform with any modification made by the court that entered the court order upon which the director based his or her order.

6. When the party seeking modifications has met the burden of proof set forth in subsection 3 of this section, then the child support shall be determined in conformity with the criteria set forth in supreme court rule 88.01.

7. The last four digits of the Social Security number of the parents shall be recorded on any order entered pursuant to this section. The full Social Security number of each party and each child shall be retained in the manner required by section 509.520.

454.505. GARNISHMENT OF WAGES, WHEN, PROCEDURE, LIMITATIONS — NOTICE TO EMPLOYER, CONTENTS — EMPLOYER, DUTIES, LIABILITIES — PRIORITIES — DISCHARGE OF EMPLOYEE PROHIBITED, WHEN, PENALTIES FOR — ORDERS ISSUED BY ANOTHER STATE, LAWS TO GOVERN. — 1. In addition to any other remedy provided by law for the enforcement

of support, if a support order has been entered, the director shall issue an order directing any employer or other payer of the parent to withhold and pay over to the division, the payment center pursuant to section 454.530 or the clerk of the circuit court in the county in which a trusteeship is or will be established, money due or to become due the obligated parent in an amount not to exceed federal wage garnishment limitations. For administrative child support orders issued pursuant to sections other than section 454.476, the director shall not issue an order to withhold and pay over in any case in which:

(1) One of the parties demonstrates, and the director finds, that there is good cause not to require immediate income withholding. For purposes of this subdivision, any finding that there is good cause not to require immediate withholding shall be based on, at least, a written determination and an explanation by the director that implementing immediate wage withholding would not be in the best interests of the child and proof of timely payments of previously ordered support in cases involving the modification of support orders; or

(2) A written agreement is reached between the parties that provides for an alternative payment arrangement.

If the income of an obligor is not withheld as of the effective date of the support order, pursuant to subdivision (1) or (2) of this subsection, or otherwise, such obligor's income shall become subject to withholding pursuant to this section, without further exception, on the date on which the obligor becomes delinquent in maintenance or child support payments in an amount equal to one month's total support obligation.

2. An order entered pursuant to this section shall recite the amount required to be paid as continuing support, the amount to be paid monthly for arrearages and the Social Security number of the obligor if available. In addition, the order shall contain a provision that the obligor shall notify the **family support** division **[**of child support enforcement**]** regarding the availability of medical insurance coverage through an employer or a group plan, provide the name of the insurance provider when coverage is available, and inform the division of any change in access to such insurance coverage. A copy of section 454.460 and this section shall be appended to the order.

3. An order entered pursuant to this section shall be served on the employer or other payer either by regular mail or by certified mail, return receipt requested or may be issued through electronic means, and shall be binding on the employer or other payer two weeks after mailing or electronic issuance of such service. A copy of the order and a notice of property exempt from withholding shall be mailed to the obligor at the obligor's last known address. The notice shall advise the obligor that the withholding has commenced and the procedures to contest such withholding pursuant to section 454.475 on the grounds that such withholding or the amount withheld is improper due to a mistake of fact by requesting a hearing thirty days from mailing the notice. At such a hearing the certified copy of the court order and the sworn or certified statement of arrearages shall constitute prima facie evidence that the director's order is valid and enforceable. If a prima facie case is established, the obligor may only assert mistake of fact as a defense. For purposes of this section, "mistake of fact" means an error in the amount of the withholding or an error as to the identity of the obligor. The obligor shall have the burden of proof on such issues. The obligor may not obtain relief from the withholding by paying the overdue support. The employer or other payer shall withhold from the earnings or other income of each obligor the amount specified in the order, and may deduct an additional sum not to exceed six dollars per month as reimbursement for costs, except that the total amount withheld shall not exceed the limitations contained in the federal Consumer Credit Protection Act, 15 U.S.C. 1673(b). The employer or other payer shall transmit the payments as directed in the order within seven business days of the date the earnings, money due or other income was payable to the obligor. For purposes of this section, "business day" means a day that state offices are open for regular business. The employer or other payer shall, along with the amounts transmitted, provide the date the amount was withheld from each obligor. If the order does not contain the

Social Security number of the obligor, the employer or other payer shall not be liable for withholding from the incorrect obligor.

4. If the order is served on a payer other than an employer, it shall be a lien against any money due or to become due the obligated parent which is in the possession of the payer on the date of service or which may come into the possession of the payer after service until further order of the director, except for any deposits held in two or more names in a financial institution.

5. The division shall notify an employer or other payer upon whom such an order has been directed whenever all arrearages have been paid in full, and whenever, for any other reason, the amount required to be withheld and paid over to the payment center pursuant to the order as to future pay periods is to be reduced or redirected. If the parent's support obligation is required to be paid monthly and the parent's pay periods are at more frequent intervals, the employer or other payer may, at the request of the obligee or the director, withhold and pay over to the payment center an equal amount at each pay period cumulatively sufficient to comply with the withholding order.

6. An order issued pursuant to subsection 1 of this section shall be a continuing order and shall remain in effect and be binding upon any employer or other payer upon whom it is directed until a further order of the director. Such orders shall terminate when all children for whom the support order applies are emancipated or deceased, or the support obligation otherwise ends, and all arrearages are paid. No order to withhold shall be terminated solely because the obligor has fully paid arrearages.

7. An order issued pursuant to subsection 1 of this section shall have priority over any other legal process pursuant to state law against the same wages, except that where the other legal process is an order issued pursuant to this section or section 452.350, the processes shall run concurrently, up to applicable wage withholding limitations. If concurrently running wage withholding processes for the collection of support obligations would cause the amounts withheld from the wages of the obligor to exceed applicable wage withholding limitations and includes a wage withholding from another state pursuant to section 454.932, the employer shall first satisfy current support obligations by dividing the amount available to be withheld among the orders on a pro rata basis using the percentages derived from the relationship each current support order amount has to the sum of all current child support obligations. Thereafter, arrearages shall be satisfied using the same pro rata distribution procedure used for distributing current support, up to the applicable limitation. If concurrently running wage withholding processes for the collection of support obligations would cause the amounts withheld from the wages of the obligor to exceed applicable wage withholding limitations and does not include a wage withholding from another state pursuant to section 454.932, the employer shall withhold and pay to the payment center an amount equal to the wage withholding limitations. The payment center shall first satisfy current support obligations by dividing the amount available to be withheld among the orders on a pro rata basis using the percentages derived from the relationship each current support order amount has to the sum of all current child support obligations. Thereafter, arrearages shall be satisfied using the same pro rata distribution procedure used for distributing current support, up to the applicable limitation.

8. No employer or other payer who complies with an order entered pursuant to this section shall be liable to the parent, or to any other person claiming rights derived from the parent, for wrongful withholding. An employer or other payer who fails or refuses to withhold or pay the amounts as ordered pursuant to this section shall be liable to the party holding the support rights in an amount equal to the amount which became due the parent during the relevant period and which, pursuant to the order, should have been withheld and paid over. The director is hereby authorized to bring an action in circuit court to determine the liability of an employer or other payer for failure to withhold or pay the amounts as ordered. If a court finds that a violation has occurred, the court may fine the employer in an amount not to exceed five hundred dollars. The court may also enter a judgment against the employer for the amounts to be withheld or paid, court costs and reasonable attorney's fees.

9. The remedy provided by this section shall be available where the state or any of its political subdivisions is the employer or other payer of the obligated parent in the same manner and to the same extent as where the employer or other payer is a private party.

10. An employer shall not discharge, or refuse to hire or otherwise discipline, an employee as a result of an order to withhold and pay over certain money authorized by this section. If any such employee is discharged within thirty days of the date upon which an order to withhold and pay over certain money is to take effect, there shall arise a rebuttable presumption that such discharge was a result of such order. This presumption shall be overcome only by clear, cogent and convincing evidence produced by the employer that the employee was not terminated because of the order to withhold and pay over certain money. The director is hereby authorized to bring an action in circuit court to determine whether the discharge constitutes a violation of this subsection. If the court finds that a violation has occurred, the court may enter an order against the employer requiring reinstatement of the employee and may fine the employer in an amount not to exceed one hundred fifty dollars. Further, the court may enter judgment against the employer for the back wages, costs, attorney's fees, and for the amount of child support which should have been withheld and paid over during the period of time the employee was wrongfully discharged.

11. If an obligor for whom an order to withhold has been issued pursuant to subsection 1 of this section terminates the obligor's employment, the employer shall, within ten days of the termination, notify the division of the termination, shall provide to the division the last known address of the obligor, if known to the employer, and shall provide to the division the name and address of the obligor's new employer, if known. When the division determines the identity of the obligor's new employer, the director shall issue an order to the new employer as provided in subsection 1 of this section.

12. If an employer or other payer is withholding amounts for more than one order issued pursuant to subsection 1 of this section, the employer or other payer may transmit all such withholdings which are to be remitted to the same circuit clerk, other collection unit or to the payment center after October 1, 1999, as one payment together with a separate list identifying obligors for whom a withholding has been made and the amount withheld from each obligor so listed, and the withholding date or dates for each obligor.

13. For purposes of this section, "income" means any periodic form of payment due to an individual, regardless of source, including wages, salaries, commissions, bonuses, workers' compensation benefits, disability benefits, payments pursuant to a pension or a retirement program, and interest.

14. The employer shall withhold funds as directed in the notice, except if an employer receives an income withholding order issued by another state, the employer shall apply the income withholding law of the state of the obligor's principal place of employment in determining:

(1) The employer's fee for processing an income withholding order;

(2) The maximum amount permitted to be withheld from the obligor's income;

(3) The time periods within which the employer shall implement the income withholding order and forward the child support payments;

(4) The priorities for withholding and allocating income withheld for multiple child support obligees; and

(5) Any withholding terms and conditions not specified in the order.

15. If the secretary of the Department of Health and Human Services promulgates a final standard format for an employer income withholding notice, the director shall use such notice prescribed by the secretary.

454.513. ATTORNEY REPRESENTATION EXCLUSIVE — ATTORNEY/CLIENT RELATIONSHIP NOT TO EXIST, WHEN — NOTICE TO PARTY NOT REPRESENTED BY ATTORNEY, WHEN. — 1. Any attorney initiating any legal proceedings at the request of the

Missouri **family support** division **[**of child support enforcement**]** shall represent the state of Missouri, department of social services, **family support** division **[**of child support enforcement**]** exclusively. An attorney/client relationship shall not exist between the attorney and any applicant or recipient of child support enforcement services for and on behalf of a child or children, without regard to the name in which legal proceedings are initiated. The provisions of this section shall apply to a prosecuting attorney, circuit attorney, attorney employed by the state or attorney under contract with the **family support** division **[**of child support enforcement**]**.

2. An attorney representing the division in a proceeding in which a child support obligation may be established or modified shall, whenever possible, notify an applicant or recipient of child support enforcement services of such proceedings if such applicant or recipient is a party to such a proceeding but is not represented by an attorney.

454.530. FAMILY SUPPORT PAYMENT CENTER ESTABLISHED BY THE DIVISION FOR CHILD SUPPORT ORDERS — DISBURSEMENT OF CHILD SUPPORT — BUSINESS DAY, DEFINED — ELECTRONIC FUNDS TRANSFER SYSTEM. — 1. On or before October 1, 1999, the **family support** division **[**of child support enforcement**]** shall establish and operate a state disbursement unit to be known as the "Family Support Payment Center" for the receipt and disbursement of payments pursuant to support orders for:

(1) All cases enforced by the division pursuant to section 454.400; and

(2) Any case required by federal law to be collected or disbursed by the payment center including, but not limited to, cases in which a support order is initially issued on or after January 1, 1994, in which the income of the obligor is subject to withholding; and

(3) Beginning July 1, 2001:

(a) Any other case with a support order in which payments are ordered or directed by a court or the division to be made to the payment center or in which the income of the obligor is subject to withholding; and

(b) Any case prior to July 1, 2001, in which support payments are ordered paid to the clerk of the court as trustee pursuant to section 452.345.

2. The family support payment center shall be operated by the division, in conjunction with other state agencies pursuant to a cooperative agreement, or by a contractor responsible directly to the division. Notwithstanding any other provision of law to the contrary, after notice by the division or the court that issued the support order to the obligor that all future payments shall be made to the payment center, the payment center shall become trustee for payments made by parents, employers, states and other entities, and all future payments shall be made to the payment center. The payment center shall disburse payments to custodial parents and other obligees, the state or agencies of other states. If the payment center is operated by a contractor and the contractor receives and disburses the payments, the contractor shall have an annual audit conducted by an independent certified public accountant. The audit will determine whether funds received are disbursed or otherwise accounted for, and make recommendations as to the procedures and changes that the contractor should take to protect the funds received from misappropriation and theft. A copy of the audit shall be delivered to the division, the office of administration and the office of the state courts administrator.

3. Except as otherwise provided in sections 454.530 to 454.560, the payment center shall disburse support payments within two business days after receipt from the employer or other source of periodic income, if sufficient information identifying the payee is provided. As used in sections 454.530 to 454.560, "business day" means a day state government offices are open for regular business. Disbursement of payments made toward arrearages may be delayed until the resolution of any timely appeal with respect to such arrearage or upon order of a court.

4. The family support payment center shall establish an electronic funds transfer system for the transfer of child support payments. Obligees who want electronic transfer of support payments to a designated account shall complete an application for direct deposit and submit it to the family support payment center. The family support payment center may issue an

electronic access card for the purpose of disbursing support payments to any obligee not using automated deposit to a designated account. Any person or employer may, without penalty, choose to disburse payments to the payment center by check or draft instead of by electronic transfer.

454.531. RECOVERY OF ERRONEOUSLY PAID CHILD SUPPORT, PROCEDURES — PENALTY. — 1. Whenever a parent or other person receives support moneys for a child paid to him or her by the **family support** division **[**of child support enforcement pursuant to**]** **under** the provisions of chapter 454, and the division subsequently determines that such payment, through no fault of the division, was erroneously made, either in good faith, or due to fraud or receipt of inaccurate information from the recipient of such support, such parent or other person shall be indebted to the division in an amount equal to the amount of the support money received by the parent or other person for that child. The division may utilize any available administrative or legal process to collect the erroneously paid support to effect recoupment and satisfaction of the debt incurred by reason of the failure of such parent or other person to reimburse the division for such erroneously paid child support. The division is also authorized to make a setoff to effect satisfaction of the debt by deduction from support moneys for that child in its possession or in the possession of any clerk of the court or other forwarding agent which would otherwise be payable to such parent or other person for the satisfaction of any support reimbursement. Nothing in this section authorizes the division to make a setoff as to current support paid during the month for which the payment is due and owing.

2. A person commits the crime of stealing, as defined by section 570.030, if he or she knowingly retains possession of child support payments which have been erroneously paid by the division through no fault of the division and the division has requested reimbursement of such support paid, if the purpose is to deprive the division of such reimbursement, either without the consent of the division or by means of deceit or coercion.

454.565. REPORT TO THE GENERAL ASSEMBLY, WHEN. — Beginning in 2000, the **family support** division **[**of child support enforcement**]** shall report to the general assembly regarding the family support payment center by December 1, 2000, and by each December first thereafter. Such report shall include recommendations and an analysis of the efficiency and effectiveness of the system.

454.600. DEFINITIONS. — As used in sections 454.600 to 454.645, the following terms mean:

(1) "Court", any circuit court establishing a support obligation pursuant to an action under this chapter, chapter 210, chapter 211 or chapter 452;

(2) "Director", the director of the **family support** division **[**of child support enforcement**]** of the department of social services;

(3) "Division", the **family support** division **[**of child support enforcement**]** of the department of social services;

(4) "Employer", any individual, organization, agency, business or corporation hiring an obligor for pay;

(5) "Health benefit plan", any benefit plan or combination of plans, other than public assistance programs, providing medical or dental care or benefits through insurance or otherwise, including but not limited to health service corporations, as defined in section 354.010; prepaid dental plans, as defined in section 354.700; health maintenance organization plans, as defined in section 354.400; and self-insurance plans, to the extent allowed by federal law;

(6) "Minor child", a child for whom a support obligation exists under law;

(7) "Obligee", a person to whom a duty of support is owed or a person, including any division of the department of social services, who has commenced a proceeding for enforcement of an alleged duty of support or for registration of a support order, regardless of whether the person to whom a duty of support is owed is a recipient of public assistance;

(8) "Obligor", a person owing a duty of support or against whom a proceeding for the enforcement of a duty of support or registration of a support order is commenced; and

(9) "IV-D case", a case in which support rights have been assigned to the state of Missouri pursuant to section 208.040, or in which the **family support** division **[**of child support enforcement**]** is providing support enforcement services pursuant to section 454.425.

454.700. INSURER TO PERMIT ENROLLMENT, WHEN — DUTIES OF EMPLOYER — GARNISHMENT OF INCOME PERMITTED, WHEN. — 1. In any case in which a parent is required by a court or administrative order to provide medical coverage for a child, under any health benefit plan, as defined in section 454.600, and a parent is eligible through employment, under the provisions of the federal Comprehensive Omnibus Budget Reconciliation Act (COBRA) or the provisions of section 376.892, or for health coverage through an insurer or group health plan, any insurers, including group health plans as defined in Section 607(1) of the federal Employee Retirement Income Security Act of 1974, offering, issuing, or renewing policies in this state on or after July 1, 1994, shall:

(1) Permit such parent to enroll under such coverage any such child who is otherwise eligible for such coverage, without regard to any enrollment season restrictions;

(2) Permit enrollment of a child under coverage upon application by the child's other parent, the **family support** division **[**of child support enforcement**]**, the **MO HealthNet** division **[**of medical services**]**, or the tribunal of another state, if the parent required by a court or administrative order to provide health coverage fails to make application to obtain coverage for such child;

(3) Not disenroll or eliminate coverage of a child unless:

(a) The insurer is provided satisfactory written evidence that such court or administrative order is no longer in effect; or

(b) The insurer is provided satisfactory written evidence that the child is or will be enrolled in comparable health coverage through another insurer which will take effect no later than the effective date of the disenrollment; or

(c) The employer or union eliminates family health coverage for all of its employees or members; or

(d) Any available continuation coverage is not elected or the period of such coverage expires.

2. In any case in which a parent is required by a court or administrative order to provide medical coverage for a child, under any health benefit plan, as defined in section 454.600, and the parent is eligible for such health coverage through an employer doing business in Missouri, the employer or union shall:

(1) Permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage, without regard to any enrollment season restrictions;

(2) Enroll a child under family coverage upon application by the child's other parent, the **family support** division **[**of child support enforcement**]**, the **MO HealthNet** division **[**of medical services**]**, or a tribunal of another state, if a parent is enrolled but fails to make application to obtain coverage of such child; and

(3) Not disenroll or eliminate coverage of any such child unless:

(a) The employer or union is provided satisfactory written evidence that such court or administrative order is no longer in effect; or

(b) The employer or union is provided satisfactory written evidence that the child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of such disenrollment; or

(c) The employer or union has eliminated family health coverage for all of its employees or members.

3. No insurer may impose any requirements on a state agency, which has been assigned the rights of an individual eligible for medical assistance under chapter 208 and covered for

health benefits from the insurer, that are different from requirements applicable to an agent or assignee of any other individual so covered.

4. All insurers shall in any case in which a child has health coverage through the insurer of a noncustodial parent:

(1) Provide such information to the custodial parent or legal guardian as may be necessary for the child to obtain benefits through such coverage;

(2) Permit the custodial parent or legal guardian, or provider, with the custodial parent's approval, to submit claims for covered services without the approval of the noncustodial parent; and

(3) Make payment on claims submitted in accordance with subdivision (2) of this subsection directly to the parent, the provider, or the **MO HealthNet** division **[**of medical services**]**.

5. The **MO HealthNet** division **[**of medical services**]** may garnish the wages, salary, or other employment income of, and require withholding amounts from state tax refunds, pursuant to section 143.783, to any person who:

(1) Is required by court or administrative order to provide coverage of the costs of health services to a child who is eligible for medical assistance under Medicaid; and

(2) Has received payment from a third party for the costs of such services to such child, but has not used such payment to reimburse, as appropriate, either the other parent or guardian of such child or the provider of such services, to the extent necessary to reimburse the **MO HealthNet** division **[**of medical services**]** for expenditures for such costs under its plan. However, claims for current or past due child support shall take priority over claims by the **MO HealthNet** division **[**of medical services**]**.

6. The remedies for the collection and enforcement of medical support established in this section are in addition to and not in substitution for other remedies provided by law and apply without regard to when the order was entered.

454.853. TRIBUNALS IN MISSOURI. — The courts and the **family support** division **[**of child support enforcement**]** are the tribunals of this state.

454.902. FAMILY SUPPORT DIVISION IS STATE INFORMATION AGENCY, DUTIES. — (a) The **family support** division **[**of child support enforcement**]** is the state information agency under sections 454.850 to 454.997.

(b) The state information agency shall:

(1) compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under sections 454.850 to 454.997, and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state;

(2) maintain a register of tribunals and support enforcement agencies received from other states;

(3) forward to the appropriate tribunal in the place in this state in which the individual obligee or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under sections 454.850 to 454.997, received from an initiating tribunal or the state information agency of the initiating state; and

(4) obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and Social Security.

454.1000. DEFINITIONS. — As used in sections 454.1000 to 454.1025, the following terms mean:

(1) "Arrearage", the amount created by a failure to provide:

(a) Support to a child pursuant to an administrative or judicial support order; or

(b) Support to a spouse if the judgment or order requiring payment of spousal support also requires payment of child support and such spouse is the custodial parent;

(2) "Child", a person for whom child support is due pursuant to a support order;

(3) "Court", any circuit court of the state that enters a support order or a circuit court in which such order is registered or filed;

(4) "Director", the director of the **family support** division **[**of child support enforcement**]**;

(5) "Division", the **family support** division **[**of child support enforcement**]** of the department of social services;

(6) "IV-D case", a case in which support rights are assigned to the state pursuant to section 208.040 or the division is providing support enforcement services pursuant to section 454.425;

(7) "License", a license, certificate, registration or authorization issued by a licensing authority granting a person a right or privilege to engage in a business, occupation, profession, recreation or other related privilege that is subject to suspension, revocation, forfeiture or termination by the licensing authority prior to its date of expiration, except for any license issued by the department of conservation. Licenses include licenses to operate motor vehicles pursuant to chapter 302, but shall not include motor vehicle registrations pursuant to chapter 301;

(8) "Licensing authority", any department, except for the department of conservation, division, board, agency or instrumentality of this state or any political subdivision thereof that issues a license. Any board or commission assigned to the division of professional registration is included in the definition of licensing authority;

(9) "Obligee":

(a) A person to whom payments are required to be made pursuant to a support order; or

(b) A public agency of this or any other state which has the right to receive current or accrued support payments or provides support enforcement services pursuant to this chapter;

(10) "Obligor", a person who owes a duty of support;

(11) "Order suspending a license", an order issued by a court or the director to suspend a license. The order shall contain the name of the obligor, date of birth of the obligor, the type of license and the Social Security number of the obligor;

(12) "Payment plan" includes, but is not limited to, a written plan approved by the court or division that incorporates an income withholding pursuant to sections 452.350 and 454.505 or a similar plan for periodic payment of an arrearage, and current and future support, if applicable;

(13) "Support order", an order providing a determinable amount for temporary or final periodic payment of support. Such order may include payment of a determinable amount of insurance, medical or other expenses of the child issued by:

(a) A court of this state;

(b) A court or administrative agency of competent jurisdiction of another state, an Indian tribe, or a foreign country; or

(c) The director of the division.

454.1003. SUSPENSION OF A PROFESSIONAL OR OCCUPATIONAL LICENSE, WHEN, PROCEDURE. — 1. A court or the director of the **family support** division **[**of child support enforcement**]** may issue an order, or in the case of a business, professional or occupational license, only a court may issue an order, suspending an obligor's license and ordering the obligor to refrain from engaging in a licensed activity in the following cases:

(1) When the obligor is not making child support payments in accordance with a support order and owes an arrearage in an amount greater than or equal to three months support payments or two thousand five hundred dollars, whichever is less, as of the date of service of a notice of intent to suspend such license; or

(2) When the obligor or any other person, after receiving appropriate notice, fails to comply with a subpoena of a court or the director concerning actions relating to the establishment of paternity, or to the establishment, modification or enforcement of support orders, or order of the director for genetic testing.

2. In any case but a IV-D case, upon the petition of an obligee alleging the existence of an arrearage, a court with jurisdiction over the support order may issue a notice of intent to suspend a license. In a IV-D case, the director, or a court at the request of the director, may issue a notice of intent to suspend.

3. The notice of intent to suspend a license shall be served on the obligor personally or by certified mail. If the proposed suspension of license is based on the obligor's support arrearage, the notice shall state that the obligor's license shall be suspended sixty days after service unless, within such time, the obligor:

(1) Pays the entire arrearage stated in the notice;

(2) Enters into and complies with a payment plan approved by the court or the division; or

(3) Requests a hearing before the court or the director.

4. In a IV-D case, the notice shall advise the obligor that hearings are subject to the contested case provisions of chapter 536.

5. If the proposed suspension of license is based on the alleged failure to comply with a subpoena relating to paternity or a child support proceeding, or order of the director for genetic testing, the notice of intent to suspend shall inform the person that such person's license shall be suspended sixty days after service, unless the person complies with the subpoena or order.

6. If the obligor fails to comply with the terms of repayment agreement, a court or the division may issue a notice of intent to suspend the obligor's license.

7. In addition to the actions to suspend or withhold licenses pursuant to this chapter, a court or the director of the **family support** division **[**of child support enforcement**]** may restrict such licenses in accordance with the provisions of this chapter.

454.1023. LIST OF LICENSED ATTORNEYS TO BE PROVIDED TO DIVISION, WHEN — ARREARAGES REPORTED TO SUPREME COURT CLERK. — The **family support** division **[**of child support enforcement**]** is hereby authorized, pursuant to a cooperative agreement with the supreme court, to develop procedures which shall permit the clerk of the supreme court to furnish the division, at least once each year, with a list of persons currently licensed to practice law in this state. If any such person has an arrearage in an amount equal to or greater than three months of support payments or two thousand five hundred dollars, the division shall notify the clerk of the supreme court that such person has an arrearage.

454.1027. HUNTING AND FISHING LICENSE SANCTIONS — DEPARTMENT OF CONSERVATION. — Notwithstanding any provision of sections 454.1000 to 454.1027 to the contrary, the following procedures shall apply between the **family support** division **[**of child support enforcement**]** and the department of conservation regarding the suspension of hunting and fishing licenses:

(1) The **family support** division **[**of child support enforcement**]** shall be responsible for making the determination whether an individual's license should be suspended based on the reasons specified in section 454.1003, after ensuring that each individual is provided due process, including appropriate notice and opportunity for administrative hearing;

(2) If the **family support** division **[**of child support enforcement**]** determines, after completion of all due process procedures available to an individual, that an individual's license should be suspended, the division shall notify the department of conservation. The department or commission shall develop a rule consistent with a cooperative agreement between the **family support** division **[**of child support enforcement**]**, the department of conservation and the conservation commission, and in accordance with 42 U.S.C. Section 666(a)(16) which shall require the suspension of a license for any person based on the reasons specified in section

454.1003. Such suspension shall remain in effect until the department is notified by the division that such suspension should be stayed or terminated because the individual is now in compliance with applicable child support laws.

454.1029. NO SUSPENSION OF LICENSES WHILE OBLIGOR HONORS THE SUPPORT AGREEMENT. — For obligors that have been making regular child support payments in accordance with an agreement entered into with the **family support** division **[**of child support enforcement**]**, the license shall not be suspended while the obligor honors such agreement.

483.163. CIRCUIT CLERK TO COOPERATE IN NONSUPPORT INVESTIGATIONS; ADDITIONAL COMPENSATION, EXCEPTION. — 1. Each circuit clerk, except the circuit clerk in any city not within a county, shall cooperate with the prosecuting attorney and **family support** division **[**of child support enforcement**]** in the investigation and documentation of possible criminal nonsupport pursuant to section 568.040.

2. Other provisions of law to the contrary notwithstanding, for the performance of the duties prescribed in subsection 1 of this section, each circuit clerk, except the circuit clerk in any city not within a county, in addition to any other compensation provided by law, shall receive five thousand dollars per year beginning January 1, 1997. Such compensation shall be payable in equal installments in the same manner and at the same time as other compensation is paid to the circuit clerk.

3. For every year beginning July 1, 1998, the amount of increased compensation established in subsection 2 of this section shall be adjusted by any salary adjustment authorized pursuant to section 476.405.

487.080. JURISDICTION. — Except as provided in section 487.130 and, notwithstanding any other provision of law to the contrary, the family court shall have exclusive original jurisdiction to hear and determine the following matters:

(1) All actions or proceedings governed by chapter 452 including but not limited to dissolution of marriage, legal separation, separate maintenance, child custody and modification actions;

(2) Actions for annulment of marriage;

(3) Adoption actions and all actions and proceedings conducted pursuant to the provisions of chapter 453;

(4) Juvenile proceedings and all actions as provided for in chapter 211;

(5) Actions to establish the parent and child relationship, except actions to establish a person as an heir, devisee or trust beneficiary, and all actions provided for in chapter 210;

(6) Actions for determination of support duties and for enforcement of support, including actions under the uniform reciprocal enforcement of support act and actions provided for in chapter 454. Family court personnel shall not duplicate any functions performed by the **family support** division **[**of child support enforcement**]** or local prosecuting attorney but shall cooperate with the **family support** division **[**of child support enforcement**]** or the local prosecuting attorney;

(7) Adult abuse and child protection actions and all actions provided for in chapter 455;

(8) Change of name actions;

(9) Marriage license waiting period waivers under chapter 451.

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

(1) A family court judge, commissioner and administrator;

(2) Two members of the Missouri Bar who are actively engaged in the practice of family law;

(3) A representative from the **children's** division **[**of family services**]**;

(4) A representative from the division of youth services;

(5) Two professional counselors, psychologists or psychiatrists;

(6) A representative from a local educational institution;

(7) A representative from the general public;

(8) A representative from an organized grandparents' association; and

(9) A representative from a domestic violence coalition.

513.430. PROPERTY EXEMPT FROM ATTACHMENT — BENEFITS FROM CERTAIN EMPLOYEE PLANS, EXCEPTION — BANKRUPTCY PROCEEDING, FRAUDULENT TRANSFERS, EXCEPTION — CONSTRUCTION OF SECTION. — 1. The following property shall be exempt from attachment and execution to the extent of any person's interest therein:

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

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

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

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

(5) Any motor vehicles, not to exceed three thousand dollars in value in the aggregate;

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

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

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

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

(10) Such person's right to receive:

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

(b) A veteran's benefit;

(c) A disability, illness or unemployment benefit;

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

(e) Any payment under a stock bonus plan, pension plan, disability or death benefit plan, profit-sharing plan, nonpublic retirement plan or any plan described, defined, or established pursuant to section **[**456.072**]** **456.014**, the person's right to a participant account in any deferred compensation program offered by the state of Missouri or any of its political subdivisions, or annuity or similar plan or contract on account of illness, disability, death, age or length of service, to the extent reasonably necessary for the support of such person and any dependent of such person unless:

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

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

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

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

(f) Any money or assets, payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan, profit-sharing plan, health savings plan, or similar plan, including an inherited account or plan, that is qualified under Section 401(a), 403(a), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as amended, whether such participant's or beneficiary's interest arises by inheritance, designation, appointment, or otherwise, except as provided in this paragraph. Any plan or arrangement described in this paragraph shall not be exempt from the claim of an alternate payee under a qualified domestic relations order; however, the interest of any and all alternate payees under a qualified domestic relations order shall be exempt from any and all claims of any creditor, other than the state of Missouri through its **[**division of family**]** **department of social** services. As used in this paragraph, the terms "alternate payee" and "qualified domestic relations order" have the meaning given to them in Section 414(p) of the Internal Revenue Code of 1986, as amended. If proceedings under Title 11 of the United States Code are commenced by or against such person, no amount of funds shall be exempt in such proceedings under any such plan, contract, or trust which is fraudulent as defined in subsection 2 of section 428.024 and for the period such person participated within three years prior to the commencement of such proceedings. For the purposes of this section, when the fraudulently conveyed funds are recovered and after, such funds shall be deducted and then treated as though the funds had never been contributed to the plan, contract, or trust;

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

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

516.350. JUDGMENTS PRESUMED TO BE PAID, WHEN — PRESUMPTION, HOW REBUTTED — INCLUSION IN THE AUTOMATED CHILD SUPPORT SYSTEM — JUDGMENT FOR UNPAID RENT, REVIVED BY PUBLICATION. — 1. Every judgment, order or decree of any court of record of the United States, or of this or any other state, territory or country, except for any judgment, order, or decree awarding child support or maintenance or dividing pension, retirement, life

insurance, or other employee benefits in connection with a dissolution of marriage, legal separation or annulment which mandates the making of payments over a period of time or payments in the future, shall be presumed to be paid and satisfied after the expiration of ten years from the date of the original rendition thereof, or if the same has been revived upon personal service duly had upon the defendant or defendants therein, then after ten years from and after such revival, or in case a payment has been made on such judgment, order or decree, and duly entered upon the record thereof, after the expiration of ten years from the last payment so made, and after the expiration of ten years from the date of the original rendition or revival upon personal service, or from the date of the last payment, such judgment shall be conclusively presumed to be paid, and no execution, order or process shall issue thereon, nor shall any suit be brought, had or maintained thereon for any purpose whatever. An action to emancipate a child, and any personal service or order rendered thereon, shall not act to revive the support order.

2. In any judgment, order, or decree awarding child support or maintenance, each periodic payment shall be presumed paid and satisfied after the expiration of ten years from the date that periodic payment is due, unless the judgment has been otherwise revived as set out in subsection 1 of this section. This subsection shall take effect as to all such judgments, orders, or decrees which have not been presumed paid pursuant to subsection 1 of this section as of August 31, 1982.

3. In any judgment, order, or decree dividing pension, retirement, life insurance, or other employee benefits in connection with a dissolution of marriage, legal separation or annulment, each periodic payment shall be presumed paid and satisfied after the expiration of ten years from the date that periodic payment is due, unless the judgment has been otherwise revived as set out in subsection 1 of this section. This subsection shall take effect as to all such judgments, orders, or decrees which have not been presumed paid pursuant to subsection 1 of this section as of August 28, 2001.

4. In any judgment, order or decree awarding child support or maintenance, payment duly entered on the record as provided in subsection 1 of this section shall include recording of payments or credits in the automated child support system created pursuant to chapter 454 by the **family support** division **[**of child support enforcement**]** or payment center pursuant to chapter 454.

577.608. DEPARTMENT OF PUBLIC SAFETY TO CERTIFY DEVICES, ADOPT GUIDELINES —CERTIFICATION INFORMATION, STANDARDS — CONSULTATION BEFORE CERTIFICATION. — 1. The **[**department of public safety**]** **state highways and transportation commission** shall certify or cause to be certified ignition interlock devices required by sections 577.600 to 577.614 and publish a list of approved devices.

2. The **[**department of public safety**]** **commission** shall adopt guidelines for the proper use of the ignition interlock devices in full compliance with sections 577.600 to 577.614.

3. The **[**department of public safety**]** **commission** shall use information from an independent agency to certify ignition interlock devices on or off the premises of the manufacturer in accordance with the guidelines. The cost of certification shall be borne by the manufacturers of interlock ignition devices. In certifying the devices, those which do not impede the safe operation of the vehicle and which have the fewest opportunities to be bypassed so as to render the provisions of sections 577.600 to 577.614 ineffective shall be certified.

4. No model of ignition interlock device shall be certified unless it meets the accuracy requirements specified by the guidelines of the **[**department of public safety**]** **commission**.

5. Before certifying any device, the **[**department of public safety**]** **commission** shall consult with the National Highway Traffic Safety Administration regarding the use of ignition interlock devices.

590.040. MINIMUM HOURS OF BASIC TRAINING REQUIRED. — 1. The POST commission shall set the minimum number of hours of basic training for licensure as a peace officer no lower than four hundred seventy and no higher than six hundred, with the following exceptions:

(1) Up to one thousand hours may be mandated for any class of license required for commission by a state law enforcement agency;

(2) As few as one hundred twenty hours may be mandated for any class of license restricted to commission as a reserve peace officer with police powers limited to the commissioning political subdivision;

(3) Persons validly licensed on August 28, 2001, may retain licensure without additional basic training;

(4) Persons licensed and commissioned within a county of the third classification before July 1, 2002, may retain licensure with one hundred twenty hours of basic training if the commissioning political subdivision has adopted an order or ordinance to that effect;

(5) Persons serving as a reserve officer on August 27, 2001, within a county of the first classification or a county with a charter form of government and with more than one million inhabitants on August 27, 2001, having previously completed a minimum of one hundred sixty hours of training, shall be granted a license necessary to function as a reserve peace officer only within such county. For the purposes of this subdivision, the term "reserve officer" shall mean any person who serves in a less than full-time law enforcement capacity, with or without pay and who, without certification, has no power of arrest and who, without certification, must be under the direct and immediate accompaniment of a certified peace officer of the same agency at all times while on duty; and

(6) The POST commission shall provide for the recognition of basic training received at law enforcement training centers of other states, the military, the federal government and territories of the United States regardless of the number of hours included in such training and shall have authority to require supplemental training as a condition of eligibility for licensure.

2. The director shall have the authority to limit any exception provided in subsection 1 of this section to persons remaining in the same commission or transferring to a commission in a similar jurisdiction.

3. The basic training of every peace officer, except agents of the conservation commission, shall include at least thirty hours of training in the investigation and management of cases involving domestic and family violence. Such training shall include instruction, specific to domestic and family violence cases, regarding: report writing; physical abuse, sexual abuse, child fatalities and child neglect; interviewing children and alleged perpetrators; the nature, extent and causes of domestic and family violence; the safety of victims, other family and household members and investigating officers; legal rights and remedies available to victims, including rights to compensation and the enforcement of civil and criminal remedies; services available to victims and their children; the effects of cultural, racial and gender bias in law enforcement; and state statutes. Said curriculum shall be developed and presented in consultation with the department of health and senior services, the **children's** division **[**of family services**]**, public and private providers of programs for victims of domestic and family violence, persons who have demonstrated expertise in training and education concerning domestic and family violence, and the Missouri coalition against domestic violence.

595.030. COMPENSATION, OUT-OF-POCKET LOSS REQUIREMENT, MAXIMUM AMOUNT FOR COUNSELING EXPENSES — AWARD, COMPUTATION — MEDICAL CARE, REQUIREMENTS — COUNSELING, REQUIREMENTS — MAXIMUM AWARD — JOINT CLAIMANTS, DISTRIBUTION — METHOD, TIMING OF PAYMENT DETERMINED BY DEPARTMENT. — 1. No compensation shall be paid unless the claimant has incurred an out-of-pocket loss of at least fifty dollars or has lost two continuous weeks of earnings or support from gainful employment. "Out-of-pocket loss" shall mean unreimbursed or unreimbursable expenses or indebtedness reasonably incurred:

(1) For medical care or other services, including psychiatric, psychological or counseling expenses, necessary as a result of the crime upon which the claim is based, except that the

amount paid for psychiatric, psychological or counseling expenses per eligible claim shall not exceed two thousand five hundred dollars; or

(2) As a result of personal property being seized in an investigation by law enforcement. Compensation paid for an out-of-pocket loss under this subdivision shall be in an amount equal to the loss sustained, but shall not exceed two hundred fifty dollars.

2. No compensation shall be paid unless the department of public safety finds that a crime was committed, that such crime directly resulted in personal physical injury to, or the death of, the victim, and that police records show that such crime was promptly reported to the proper authorities. In no case may compensation be paid if the police records show that such report was made more than forty-eight hours after the occurrence of such crime, unless the department of public safety finds that the report to the police was delayed for good cause. If the victim is under eighteen years of age such report may be made by the victim's parent, guardian or custodian; by a physician, a nurse, or hospital emergency room personnel; by the **children's** division **[**of family services**]** personnel; or by any other member of the victim's family. In the case of a sexual offense, filing a report of the offense to the proper authorities may include, but not be limited to, the filing of the report of the forensic examination by the appropriate medical provider, as defined in section 595.220, with the prosecuting attorney of the county in which the alleged incident occurred.

3. No compensation shall be paid for medical care if the service provider is not a medical provider as that term is defined in section 595.027, and the individual providing the medical care is not licensed by the state of Missouri or the state in which the medical care is provided.

4. No compensation shall be paid for psychiatric treatment or other counseling services, including psychotherapy, unless the service provider is a:

(1) Physician licensed pursuant to chapter 334 or licensed to practice medicine in the state in which the service is provided;

(2) Psychologist licensed pursuant to chapter 337 or licensed to practice psychology in the state in which the service is provided;

(3) Clinical social worker licensed pursuant to chapter 337; or

(4) Professional counselor licensed pursuant to chapter 337.

5. Any compensation paid pursuant to sections 595.010 to 595.075 for death or personal injury shall be in an amount not exceeding out-of-pocket loss, together with loss of earnings or support from gainful employment, not to exceed two hundred dollars per week, resulting from such injury or death. In the event of death of the victim, an award may be made for reasonable and necessary expenses actually incurred for preparation and burial not to exceed five thousand dollars.

6. Any compensation for loss of earnings or support from gainful employment shall be in an amount equal to the actual loss sustained not to exceed two hundred dollars per week; provided, however, that no award pursuant to sections 595.010 to 595.075 shall exceed twenty-five thousand dollars. If two or more persons are entitled to compensation as a result of the death of a person which is the direct result of a crime or in the case of a sexual assault, the compensation shall be apportioned by the department of public safety among the claimants in proportion to their loss.

7. The method and timing of the payment of any compensation pursuant to sections 595.010 to 595.075 shall be determined by the department.

595.036. GRIEVANCES, DECISION OF DEPARTMENT, APPEAL TO ADMINISTRATIVE HEARING COMMISSION. — 1. **For any claim filed on or after August 28, 2014,** any party aggrieved by a decision of the department **of public safety** on a claim under the provisions of sections 595.010 to **[**595.070**] 595.075** may, within thirty days following the date of notification **[**of mailing**]** of such decision, file a petition with the **[**division of workers' compensation of the department of labor and industrial relations**] department** to have such decision heard de novo by **[**an administrative law judge**] the director**. The **[**administrative law judge**] director** may

affirm**[**,**]** **or** reverse**[**, or set aside**]** the **department's** decision **[**of the department of public safety**]** on the basis of the evidence previously submitted in such case or may take additional evidence **[**or may remand the matter to the department of public safety with directions**]** **in reviewing the decision**. The **[**division of workers' compensation**]** **department** shall promptly notify the **[**parties**]** **party** of its decision and the reasons therefor.

2. Any **[**of the parties to a decision of an administrative law judge of the division of workers' compensation, as provided by subsection 1 of this section, on a claim heard under the provisions of sections 595.010 to 595.070**]** **party aggrieved by the department's decision** may, within thirty days following the date of notification **[**or mailing**]** of such decision, file a petition with the **[**labor and industrial relations**]** **administrative hearing** commission to **[**have**]** **appeal** such decision **[**reviewed by the commission. The commission may allow or deny a petition for review. If a petition is allowed, the commission may affirm, reverse, or set aside the decision of the division of workers' compensation on the basis of the evidence previously submitted in such case or may take additional evidence or may remand the matter to the division of workers' compensation with directions. The commission shall promptly notify the parties of its decision and the reasons therefor.

3. Any petition for review filed pursuant to subsection 1 of this section shall be deemed to be filed as of the date endorsed by the United States Postal Service on the envelope or container in which such petition is received.

4. Any party who is aggrieved by a final decision of the labor and industrial relations commission pursuant to the provisions of subsections 2 and 3 of this section shall within thirty days from the date of the final decision appeal the decision to the court of appeals. Such appeal may be taken by filing notice of appeal with commission, whereupon the commission shall, under its certificate, return to the court all documents and papers on file in the matter, together with a transcript of the evidence, the findings and award, which shall thereupon become the record of the cause. Upon appeal no additional evidence shall be heard and, in the absence of fraud, the findings of fact made by the commission within its powers shall be conclusive and binding. The court, on appeal, shall review only questions of law and may modify, reverse, remand for rehearing, or set aside the award upon any of the following grounds and no other:

(1) That the commission acted without or in excess of its powers;

(2) That the award was procured by fraud;

(3) That the facts found by the commission do not support the award;

(4) That there was not sufficient competent evidence in the record to warrant the making of the award**]** **as provided in section 621.275**.

595.037. OPEN RECORDS, EXCEPTIONS — DEPARTMENT ORDER TO CLOSE RECORDS. — 1. All information submitted to the department **[**or division of workers' compensation**]** and any hearing of the **[**division of workers' compensation**]** **department** on a claim filed pursuant to sections 595.010 to 595.075 shall be open to the public except for the following claims which shall be deemed closed and confidential:

(1) A claim in which the alleged assailant has not been brought to trial and disclosure of the information or a public hearing would adversely affect either the apprehension, or the trial, of the alleged assailant;

(2) A claim in which the offense allegedly perpetrated against the victim is rape, sodomy or sexual abuse and it is determined by the department **[**or division of workers' compensation**]** to be in the best interest of the victim or of the victim's dependents that the information be kept confidential or that the public be excluded from the hearing;

(3) A claim in which the victim or alleged assailant is a minor; or

(4) A claim in which any record or report obtained by the department **[**or division of workers' compensation**]**, the confidentiality of which is protected by any other law, shall remain confidential subject to such law.

2. The department [and division of workers' compensation, by separate order,] may close any record, report or hearing if it determines that the interest of justice would be frustrated rather than furthered if such record or report was disclosed or if the hearing was open to the public.

595.060. RULES, AUTHORITY — PROCEDURE. — The director shall promulgate rules and regulations necessary to implement the provisions of sections 595.010 to 595.220 as provided in this section and chapter 536. [In the performance of its functions under section 595.036, the division of workers' compensation is authorized to promulgate rules pursuant to chapter 536 prescribing the procedures to be followed in the proceedings under section 595.036.] Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

610.029. GOVERNMENTAL AGENCIES TO PROVIDE INFORMATION BY ELECTRONIC SERVICES, CONTRACTS FOR PUBLIC RECORDS DATABASES, REQUIREMENTS, ELECTRONIC SERVICES DEFINED — DIVISION OF DATA PROCESSING MAY BE CONSULTED. — 1. A public governmental body keeping its records in an electronic format is strongly encouraged to provide access to its public records to members of the public in an electronic format. A public governmental body is strongly encouraged to make information available in usable electronic formats to the greatest extent feasible. A public governmental body [may] **shall** not enter into a contract for the creation or maintenance of a public records database if that contract impairs the ability of the public to inspect or copy the public records of that agency, including public records that are online or stored in an electronic record-keeping system used by the agency. Such contract [may] **shall** not allow any impediment that as a practical matter makes it more difficult for the public to inspect or copy the records than to inspect or copy the public governmental body's records. For purposes of this section, a usable electronic format shall allow, at a minimum, viewing and printing of records. However, if the public governmental body keeps a record on a system capable of allowing the copying of electronic documents into other electronic documents, the public governmental body shall provide data to the public in such electronic format, if requested. The activities authorized pursuant to this section [may] **shall** not take priority over the primary responsibilities of a public governmental body. For purposes of this section the term "electronic services" means online access or access via other electronic means to an electronic file or database. This subsection shall not apply to contracts initially entered into before August 28, 2004.

2. Public governmental bodies shall include in a contract for electronic services provisions that:

(1) Protect the security and integrity of the information system of the public governmental body and of information systems that are shared by public governmental bodies; and

(2) Limit the liability of the public governmental body providing the services.

3. Each public governmental body may consult with the [division of data processing and telecommunications] **information technology services division** of the office of administration to develop the electronic services offered by the public governmental body to the public pursuant to this section.

610.120. RECORDS TO BE CONFIDENTIAL — ACCESSIBLE TO WHOM, PURPOSES. — 1. Records required to be closed shall not be destroyed; they shall be inaccessible to the general public and to all persons other than the defendant except as provided in this section and section 43.507. The closed records shall be available to: criminal justice agencies for the administration of criminal justice pursuant to section 43.500, criminal justice employment, screening persons

with access to criminal justice facilities, procedures, and sensitive information; to law enforcement agencies for issuance or renewal of a license, permit, certification, or registration of authority from such agency including but not limited to watchmen, security personnel, private investigators, and persons seeking permits to purchase or possess a firearm; those agencies authorized by section 43.543 to submit and when submitting fingerprints to the central repository; the sentencing advisory commission created in section 558.019 for the purpose of studying sentencing practices in accordance with section 43.507; to qualified entities for the purpose of screening providers defined in section 43.540; the department of revenue for driver license administration; the **[**division of workers' compensation**]** **department of public safety** for the purposes of determining eligibility for crime victims' compensation pursuant to sections 595.010 to 595.075, department of health and senior services for the purpose of licensing and regulating facilities and regulating in-home services provider agencies and federal agencies for purposes of criminal justice administration, criminal justice employment, child, elderly, or disabled care, and for such investigative purposes as authorized by law or presidential executive order.

2. These records shall be made available only for the purposes and to the entities listed in this section. A criminal justice agency receiving a request for criminal history information under its control may require positive identification, to include fingerprints of the subject of the record search, prior to releasing closed record information. Dissemination of closed and open records from the Missouri criminal records repository shall be in accordance with section 43.509. All records which are closed records shall be removed from the records of the courts, administrative agencies, and law enforcement agencies which are available to the public and shall be kept in separate records which are to be held confidential and, where possible, pages of the public record shall be retyped or rewritten omitting those portions of the record which deal with the defendant's case. If retyping or rewriting is not feasible because of the permanent nature of the record books, such record entries shall be blacked out and recopied in a confidential book.

620.010. DEPARTMENT OF ECONOMIC DEVELOPMENT CREATED — DIVISIONS — AGENCIES — BOARDS AND COMMISSIONS — PERSONNEL — POWERS AND DUTIES — RULES, PROCEDURE. — 1. There is hereby created a "Department of Economic Development" to be headed by a director appointed by the governor, by and with the advice and consent of the senate. All of the general provisions, definitions and powers enumerated in section 1 of the Omnibus State Reorganization Act of 1974 shall continue to apply to this department and its divisions, agencies and personnel.

2. The powers, duties and functions vested in the public service commission, chapters 386, 387, 388, 389, 390, 392, 393, and others, and the administrative hearing commission, sections 621.015 to 621.198 and others, are transferred by type III transfers to the department of economic development. The director of the department is directed to provide and coordinate staff and equipment services to these agencies in the interest of facilitating the work of the bodies and achieving optimum efficiency in staff services common to all the bodies. Nothing in the Reorganization Act of 1974 shall prevent the chairman of the public service commission from presenting additional budget requests or from explaining or clarifying its budget requests to the governor or general assembly.

3. The powers, duties and functions vested in the office of the public counsel are transferred by type III transfer to the department of economic development. Funding for the general counsel's office shall be by general revenue.

4. The public service commission is authorized to employ such staff as it deems necessary for the functions performed by the general counsel other than those powers, duties and functions relating to representation of the public before the public service commission.

5. All the powers, duties and functions vested in the tourism commission, chapter 258 and others, are transferred to the "Division of Tourism", which is hereby created, by type III transfer.

6. All the powers, duties and functions of the department of community affairs, chapter 251 and others, not otherwise assigned, are transferred by type I transfer to the department of economic development, and the department of community affairs is abolished. The director of

the department of economic development may assume all the duties of the director of community affairs or may establish within the department such subunits and advisory committees as may be required to administer the programs so transferred. The director of the department shall appoint all members of such committees and heads of subunits.

7. The state council on the arts, chapter 185 and others, is transferred by type II transfer to the department of economic development, and the members of the council shall be appointed by the director of the department.

8. The Missouri housing development commission, chapter 215, is assigned to the department of economic development, but shall remain a governmental instrumentality of the state of Missouri and shall constitute a body corporate and politic.

9. All the authority, powers, duties, functions, records, personnel, property, matters pending and other pertinent vestiges of the division of manpower planning of the department of social services are transferred by a type I transfer to the "Division of **[**Job Development and Training**]** **Workforce Development**", which is hereby created, within the department of economic development. The division of manpower planning within the department of social services is abolished. The provisions of section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, relating to the manner and procedures for transfers of state agencies shall apply to the transfers provided in this section.

10. **All the authority, powers, functions, records, personnel, property, contracts, matters pending and other pertinent vestiges of the division of employment security within the department of labor and industrial relations related to job training and labor exchange that are funded with or based upon Wagner-Peyser funds, and other federal and state workforce development programs administered by the division of employment security are transferred by a type I transfer to the division of workforce development within the department of economic development.**

11. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

[288.270.] 620.484. FREE PUBLIC EMPLOYMENT OFFICES. — The provisions of the Wagner-Peyser Act (29 U.S.C.A. Sec. 49 et seq.), as amended, are hereby accepted by this state and the division of **[**employment security**]** **workforce development of the department of economic development** is hereby designated and constituted the agency of this state for the purposes of said act. The division shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of this chapter and for the purposes of performing such functions as are within the purview of the Wagner-Peyser Act.

620.490. RULEMAKING AUTHORITY, COORDINATION OF STATE AND FEDERAL JOB TRAINING RESOURCES. — The department of economic development shall promulgate rules providing for the coordination of state and federal job training resources administered by the department of economic development, including the **[**service delivery**]** **local workforce investment** areas established in the state to administer federal funds pursuant to the federal **[**Job Training Partnership**]** **Workforce Investment** Act or its successor, for the provision of assistance to businesses in this state relating to the creation of new jobs in the state. The department shall include in these rules the methods to be followed by any business engaged in the creation of new jobs in state to ensure that economically disadvantaged citizens receive opportunities for employment in the new jobs created. No rule or portion of a rule promulgated

pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

620.556. DEFINITIONS. — As used in sections 620.552 to 620.574 the following terms mean:

(1) "Corps" and "youth corps", the Missouri youth service and conservation corps;

(2) "Division", the division of **[**job development and training**]** **workforce development** within the department of economic development;

(3) **"Local workforce investment boards", the local workforce investment boards established under Section 117 of the Workforce Investment Act, Public Law 105-220, as amended, or any other succeeding administrative body established by subsequent federal legislation to provide for the local administration and expenditure of funding for employment and job training and approved by the division of workforce development;**

(4) "Participant", a person who has been hired, or who has been accepted as a volunteer, and who meets the program eligibility criteria established by sections 620.552 to 620.574;

[(4) "Private industry council", the private industry councils established pursuant to the Job Training Partnership Act, Public Law 97-300, as amended, or any other succeeding administrative body established by subsequent federal legislation to provide for the local administration and expenditure of funding for employment and job training and approved by the division of job training and development;**]**

(5) "Project", an undertaking designed to provide or assist in providing services to promote conservation, public health, education and welfare among the general population. The term includes, but is not limited to:

(a) The rehabilitation of substandard housing;

(b) The repair, restoration and maintenance of public facilities and amenities;

(c) Assistance with the organization and delivery of educational and health services;

(d) Assistance for the elderly homebound;

(e) Delivery of food to the hungry and elderly;

(f) Restoration or development of park facilities;

(g) Trail construction and maintenance;

(h) Litter control;

(i) Land and soil conservation and rehabilitation;

(j) Road repair;

(k) Land reclamation;

(l) Reforestation; and

(m) Other undertakings which benefit the control, management, restoration and conservation of the bird, fish, game, forestry, or wildlife resources, and soil or water resources of this state;

(6) "Project sponsor", state agencies, including the departments of elementary and secondary education, social services, labor and industrial relations, conservation, and natural resources and the University of Missouri extension system; any unit of local government, including school districts; private not-for-profit corporations or organizations; administrative entities designated pursuant to the requirements of the **[**Job Training Partnership**]** **Workforce Investment** Act and any subsequent amendments; and community-based organizations.

620.558. PROGRAMS — PARTICIPATION. — 1. The Missouri youth service and conservation corps shall consist of the following programs:

(1) A year-round community services and conservation program for young adults;

(2) A summer employment program;

(3) A volunteer program for youths.

2. In selecting participants for the youth service and conservation corps, the director of the division shall give preference to persons who are high school dropouts and who are at risk of not

graduating from high school. The director may segregate programs and funds to serve such persons to enhance the efficiency of administering any federal **[**Job Training Partnership**]** **Workforce Investment** Act funds which are available to the youth service and conservation corps.

3. Residents of both urban and rural areas of the state shall be eligible to apply to participate in the youth service and conservation corps. No person who has been convicted of a felony within the previous two years shall be eligible to participate in the youth service and conservation corps. Participants shall be unemployed at the time of their enrollment.

620.560. COMMUNITY SERVICES AND CONSERVATION PROGRAM. — 1. The community services and conservation program for young adults shall consist of projects offering participants paid work experience integrated with educational activities which may include, but is not limited to, employability skills training and educational remediation activities.

2. Participants who are high school dropouts shall work toward the completion of their graduate equivalency diploma and shall be excused from work according to a planned work schedule proposed by the project sponsor and approved by the division of **[**job development and training**]** **workforce development** in its review of a project application, to allow them to attend classes or gain instruction. The division of **[**job development and training**]** **workforce development** shall work with the department of elementary and secondary education to establish criteria for determining participants who may be at risk of not earning a high school diploma. Participants who meet these criteria shall be required to attend remediation classes designed to assist in the retention and successful completion of high school according to a planned work schedule proposed by the project sponsor and approved by the division in its review of a project application. All participants shall be paid a wage according to a work plan approved by the division, and commensurate with the number of hours worked by the participant. During the last three weeks of employment, all participants may be granted eight hours of paid time each week to search for permanent employment.

620.562. SUMMER EMPLOYMENT PROGRAM — AT-RISK PARTICIPANTS, REMEDIATION. — 1. The summer employment program shall consist of projects offering needed paid work experience integrated with educational activities which may include, but is not limited to, employability skills training and educational remediation activities. Participants shall be unemployed at the time of their enrollment.

2. Participants in the program shall be paid a wage according to a work plan approved by the division of **[**job development and training**]** **workforce development**, and commensurate with the number of hours worked by the participant. If participants are high school dropouts, they shall be required to work toward the completion of their graduate equivalency diploma while employed in the summer employment and remediation program. The division of **[**job development and training**]** **workforce development** shall work with the department of elementary and secondary education to establish criteria for determining participants who may be at risk of not earning a high school diploma. Participants who meet these criteria shall be required to attend remediation classes designed to assist in the retention and successful completion of high school.

620.566. ADMINISTRATION OF PROGRAMS — RULES AND REGULATIONS — APPLICATION, CONTENTS, REVIEW. — 1. The division of **[**job development and training**]** **workforce development** within the department of economic development is hereby authorized to administer the Missouri youth service and conservation corps programs and adopt rules and regulations governing their operation and participation requirements.

2. The division shall cooperate with and may directly contract with all state agencies, local units of government and any of the governor's advisory councils or commissions, or their successor agencies, and with private not-for-profit organizations in delivery of youth corps

programs. For purposes of this section, the contracting process of the division with these entities need not be governed by the provisions of chapter 34.

3. Upon application to the division and subject to the availability of funds, the division is authorized to provide funding assistance through contracts with administrative entities, designated pursuant to the **[**Job Training Partnership**]** **Workforce Investment** Act and any subsequent amendments, and project sponsors. The application shall form the basis for the contract agreement and, at a minimum, shall include:

(1) A general project description, including the extent to which it satisfies community development or resource conservation objectives and whether or not such objectives are stated within any municipal, county, regional or state agency plan;

(2) The number of corps members to be assigned to each project, a description of the nature and duration of their employment or volunteer work, and a description of combinations or sequences of education or vocational training to be provided;

(3) The amount of total funds required to sustain the project, distinguishing between the amounts required for corps members' wages and stipends, if any, and the amounts required for other purposes;

(4) A statement of the amount and purpose of funding assistance requested from the division and the manner and timing of its disbursement;

(5) A description of the interagency coordination, technical assistance and financial support which together with the funding assistance, the resources of the applicant and support from any other source, is sufficient to ensure the success of the project. The commitment of financial support from the project sponsor shall be equal to or greater than twenty-five percent of the amount of the total project cost.

4. An application shall only be submitted to the division after review by the private industry council operating within the service delivery area in which the project is to be located, regardless of the actual project sponsor. It shall include the signatures of the **[**private industry council chairman**]** **workforce investment board chairperson** and the designated chief local elected official of the **[**service delivery**]** **local workforce investment** area.

5. The division shall ensure that all affected state agencies are made aware of the application and are provided the opportunity to offer comments related to the project feasibility, including the identification of other available funds for the project.

620.570. EVALUATION OF PROGRAMS — INTERAGENCY COOPERATION — "SHOW-ME" EMPLOYERS. — 1. The Missouri training and employment council, as established in section 620.523, shall review and recommend criteria for evaluating project funding assistance, program criteria, and other requirements and priorities to be used by the division in the evaluation and monitoring of Missouri youth service and conservation corps projects.

2. The division shall work with the department of higher education, the department of elementary and secondary education, all colleges, universities and lending institutions throughout the state to develop a system of academic credit, tuition grants and deferred loan repayment incentives for young adults who enroll and complete participation in corps programs. The division shall adopt rules under chapter 536 designed to implement any such incentive programs.

3. The **division of workforce development of the** department of economic development **[**and the department of labor and industrial relations**]** shall establish and promote the recruitment of "Show-Me Employers" which shall consist of Missouri-based corporations and businesses agreeing to interview, for entry-level jobs, participants successfully completing a youth corps program.

4. The division of **[**employment security within the department of labor and industrial relations**]** **workforce development of the department of economic development** shall recognize and promote within the labor exchange system the youth service corps and the potential benefits of hiring participants who have successfully completed any of the corps' programs.

620.572. ALLOCATIONS FOR OPERATION OF CORPS. — The directors of the departments of conservation, economic development, social services, elementary and secondary education, labor and industrial relations, and natural resources and the director of the University of Missouri extension system shall meet regularly to establish appropriate allocations from their respective budgets to be made for the operation of the Missouri youth service and conservation corps. Funding for the operation of the corps may come from, but not be limited to, moneys available through the federal Carl Perkins Act, the federal **[**Job Training Partnership**]** **Workforce Investment** Act, the federal Wagner-Peyser Act, the one-eighth of one cent sales tax as authorized by Sections 43(a) and 43(b) of Article IV of the Missouri Constitution, and other discretionary funds which may be available to the various departments and to the governor's office.

620.1100. YOUTH OPPORTUNITIES AND VIOLENCE PREVENTION PROGRAM ESTABLISHED, PURPOSE — ADVISORY COMMITTEE DEFINED, MEMBERS, APPOINTMENT — FUND, ESTABLISHMENT, ADMINISTRATION — PROGRAM CRITERIA, EVALUATION — DATABASE, DEVELOPMENT, OPERATION. — 1. The "Youth Opportunities and Violence Prevention Program" is hereby established in the division of community and economic development of the department of economic development to broaden and strengthen opportunities for positive development and participation in community life for youth, and to discourage such persons from engaging in criminal and violent behavior. For the purposes of section 135.460, this section and section 620.1103, the term "advisory committee" shall mean an advisory committee to the division of community and economic development established pursuant to this section composed of ten members of the public. The ten members of the advisory committee shall include members of the private sector with expertise in youth programs, and at least one person under the age of twenty-one. Such members shall be appointed for two-year terms by the director of the department of economic development.

2. The "Youth Opportunities and Violence Prevention Fund" is hereby established in the state treasury and shall be administered by the department of economic development. The department may accept for deposit into the fund any grants, bequests, gifts, devises, contributions, appropriations, federal funds, and any other funds from whatever source derived. Moneys in the fund shall be used solely for purposes provided in section 135.460, this section and section 620.1103. Any unexpended balance in the fund at the end of a fiscal year shall be exempt from the provisions of section 33.080 relating to the transfer of unexpended balances to the general revenue fund.

3. The department of economic development in conjunction with the advisory committee shall establish program criteria and evaluation methods for tax credits claimed pursuant to section 135.460. Such criteria and evaluation methods shall measure program effectiveness and outcomes, and shall give priority to local, neighborhood, community-based programs. The department shall monitor and evaluate all programs funded pursuant to section 135.460, this section and section 620.1103. Such programs shall provide a priority for applications from areas of the state which have statistically higher incidence of crime, violence and poverty and such programs shall be funded before the programs which have applied from areas which do not exhibit crime, violence, and poverty to the same degree. The committee shall focus and support specific programs designed to generate self-esteem and a positive self-reliance in youth and which abate youth violence.

4. The department shall develop and operate a database which lists all participating and related programs. The database shall include indexes and cross references and shall be accessible by the public by computer-modem connection. The **information technology services** division **[**of data processing and telecommunications**]** of the office of administration and the department of economic development shall cooperate with the advisory committee in the development and operation of the program.

620.1580. ADVISORY COMMITTEE FOR ELECTRONIC COMMERCE ESTABLISHED, MEMBERS, TERMS, MEETINGS. — 1. There is hereby established within the department of economic development the "Advisory Committee for Electronic Commerce". The purpose of the committee shall be to advise the various agencies of the state of Missouri on issues related to electronic commerce.

2. The committee shall be composed of thirteen members, who shall be appointed by the director of the department of economic development, as follows:

(1) One member shall be the director of the department of economic development;

(2) One member shall be an employee of the department of revenue;

(3) One member shall be an employee of the department of labor and industrial relations;

(4) One member shall be the secretary of state;

(5) One member shall be the chief information officer for the **[**office of technology**]** **information technology services division**;

(6) Seven members shall be from the business community, with at least one such member being from an organization representative of industry, and with at least one such member being from an organization representative of independent businesses, and with at least one such member being from an organization representative of retail business, and with at least one such member being from an organization representative of local or regional commerce; and

(7) One member shall be from the public at large.

3. The members of the committee shall serve for terms of two years duration, and may be reappointed at the discretion of the director of the department of economic development. Members of the committee shall not be compensated for their services, but shall be reimbursed for actual and necessary expenses incurred in the performance of their service on the committee.

4. The director of the department of economic development shall serve as chair of the committee and shall designate an employee or employees of the department of economic development to staff the committee, or to chair the committee in the director's absence.

5. The committee shall meet at such places and times as are designated by the director of the department of economic development, but shall not meet less than twice per calendar year.

621.275. DECISIONS OF DEPARTMENT OF PUBLIC SAFETY, VICTIMS OF CRIME, APPEAL TO ADMINISTRATIVE HEARING COMMISSION, PROCEDURE. — 1. Any person shall have the right to appeal to the administrative hearing commission from any decision made by the department of public safety under section 595.036 regarding such person's claim for compensation as provided in sections 595.010 to 595.075.

2. Any person filing an appeal with the administrative hearing commission shall be entitled to a hearing before the commission. The person shall file a petition with the commission within thirty days after the decision of the director of the department of public safety is sent in the United States mail or within thirty days after the decision is delivered, whichever is earlier. The director's decision shall contain a notice of the person's right to appeal:

"If you were adversely affected by this decision, you may appeal to the administrative hearing commission. To appeal, you must file a petition with the administrative hearing commission within thirty days after the date this decision was delivered. If your petition is sent by registered or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method other than registered mail, it will be deemed filed on the date it is received by the commission.".

3. Decisions of the administrative hearing commission under this section shall be binding subject to appeal by either party. The procedures established under chapter 536 shall apply to any hearings and determinations under this section.

630.097. COMPREHENSIVE CHILDREN'S MENTAL HEALTH SERVICE SYSTEM TO BE DEVELOPED — TEAM ESTABLISHED, MEMBERS, DUTIES — PLAN TO BE DEVELOPED, CONTENT — EVALUATIONS TO BE CONDUCTED, WHEN. — 1. The department of mental health shall develop, in partnership with all departments represented on the children's services commission, a unified accountable comprehensive children's mental health service system. The department of mental health shall establish a state interagency comprehensive children's mental health service system team comprised of representation from:

(1) Family-run organizations and family members;

(2) Child advocate organizations;

(3) The department of health and senior services;

(4) The department of social services' children's division, division of youth services, and the **MO HealthNet** division **[**of medical services**]**;

(5) The department of elementary and secondary education;

(6) The department of mental health's division of alcohol and drug abuse, division of developmental disabilities, and the division of comprehensive psychiatric services;

(7) The department of public safety;

(8) The office of state courts administrator;

(9) The juvenile justice system; and

(10) Local representatives of the member organizations of the state team to serve children with emotional and behavioral disturbance problems, developmental disabilities, and substance abuse problems.

The team shall be called "The Comprehensive System Management Team". There shall be a stakeholder advisory committee to provide input to the comprehensive system management team to assist the departments in developing strategies and to ensure positive outcomes for children are being achieved. The department of mental health shall obtain input from appropriate consumer and family advocates when selecting family members for the comprehensive system management team, in consultation with the departments that serve on the children's services commission. The implementation of a comprehensive system shall include all state agencies and system partner organizations involved in the lives of the children served. These system partners may include private and not-for-profit organizations and representatives from local system of care teams and these partners may serve on the stakeholder advisory committee. The department of mental health shall promulgate rules for the implementation of this section in consultation with all of the departments represented on the children's services commission.

2. The department of mental health shall, in partnership with the departments serving on the children's services commission and the stakeholder advisory committee, develop a state comprehensive children's mental health service system plan. This plan shall be developed and submitted to the governor, the general assembly, and children's services commission by December, 2004. There shall be subsequent annual reports that include progress toward outcomes, monitoring, changes in populations and services, and emerging issues. The plan shall:

(1) Describe the mental health service and support needs of Missouri's children and their families, including the specialized needs of specific segments of the population;

(2) Define the comprehensive array of services including services such as intensive home-based services, early intervention services, family support services, respite services, and behavioral assistance services;

(3) Establish short- and long-term goals, objectives, and outcomes;

(4) Describe and define the parameters for local implementation of comprehensive children's mental health system teams;

(5) Describe and emphasize the importance of family involvement in all levels of the system;

(6) Describe the mechanisms for financing, and the cost of implementing the comprehensive array of services;

(7) Describe the coordination of services across child-serving agencies and at critical transition points, with emphasis on the involvement of local schools;

(8) Describe methods for service, program, and system evaluation;

(9) Describe the need for, and approaches to, training and technical assistance; and

(10) Describe the roles and responsibilities of the state and local child-serving agencies in implementing the comprehensive children's mental health care system.

3. The comprehensive system management team shall collaborate to develop uniform language to be used in intake and throughout the provision of services.

4. The comprehensive children's mental health services system shall:

(1) Be child centered, family focused, strength based, and family driven, with the needs of the child and family dictating the types and mix of services provided, and shall include the families as full participants in all aspects of the planning and delivery of services;

(2) Provide community-based mental health services to children and their families in the context in which the children live and attend school;

(3) Respond in a culturally competent and responsive manner;

(4) Emphasize prevention, early identification, and intervention;

(5) Assure access to a continuum of services that:

(a) Educate the community about the mental health needs of children;

(b) Address the unique physical, behavioral, emotional, social, developmental, and educational needs of children;

(c) Are coordinated with the range of social and human services provided to children and their families by local school districts, the departments of social services, health and senior services, and public safety, juvenile offices, and the juvenile and family courts;

(d) Provide a comprehensive array of services through an integrated service plan;

(e) Provide services in the least restrictive most appropriate environment that meets the needs of the child; and

(f) Are appropriate to the developmental needs of children;

(6) Include early screening and prompt intervention to:

(a) Identify and treat the mental health needs of children in the least restrictive environment appropriate to their needs; and

(b) Prevent further deterioration;

(7) Address the unique problems of paying for mental health services for children, including:

(a) Access to private insurance coverage;

(b) Public funding, including:

a. Assuring that funding follows children across departments; and

b. Maximizing federal financial participation;

(c) Private funding and services;

(8) Assure a smooth transition from child to adult mental health services when needed;

(9) Coordinate a service delivery system inclusive of services, providers, and schools that serve children and youth with emotional and behavioral disturbance problems, and their families through state agencies that serve on the state comprehensive children's management team; and

(10) Be outcome based.

5. By August 28, 2007, and periodically thereafter, the children's services commission shall conduct and distribute to the general assembly an evaluation of the implementation and effectiveness of the comprehensive children's mental health care system, including an assessment of family satisfaction and the progress of achieving outcomes.

632.070. DEPARTMENT OF SOCIAL SERVICES TO COOPERATE WITH MENTAL HEALTH DEPARTMENT — CONSENT FOR MINORS REQUIRED. — The **[**division of family services of the**]** department of social services through its county family service offices shall cooperate with the facilities, programs and services operated or funded by the department in locating, referring and

interviewing any persons who are in need of comprehensive psychiatric services. The parents or legal custodians of any minors shall consent to the treatment of the minors, and they shall be advised that they have the right to consult their regular physicians before giving their consent to any treatment.

650.005. DEPARTMENT OF PUBLIC SAFETY CREATED — DIRECTOR, APPOINTMENT — DEPARTMENT'S DUTIES — RULES, PROCEDURE. — 1. There is hereby created a "Department of Public Safety" in charge of a director appointed by the governor with the advice and consent of the senate. The department's role will be to provide overall coordination in the state's public safety and law enforcement program, to provide channels of coordination with local and federal agencies in regard to public safety, law enforcement and with all correctional and judicial agencies in regard to matters pertaining to its responsibilities as they may interrelate with the other agencies or offices of state, local or federal governments.

2. All the powers, duties and functions of the state highway patrol, chapter 43 and others, are transferred by type II transfer to the department of public safety. The governor by and with the advice and consent of the senate shall appoint the superintendent of the patrol. With the exception of sections 43.100 to 43.120 relating to financial procedures, the director of public safety shall succeed the state highways and transportation commission in approving actions of the superintendent and related matters as provided in chapter 43. Uniformed members of the patrol shall be selected in the manner provided by law and shall receive the compensation provided by law. Nothing in the Reorganization Act of 1974, however, shall be interpreted to affect the funding of appropriations or the operation of chapter 104 relating to retirement system coverage or section 226.160 relating to workers' compensation for members of the patrol.

3. All the powers, duties and functions of the supervisor of liquor control, chapter 311 and others, are transferred by type II transfer to the department of public safety. The supervisor shall be nominated by the department director and appointed by the governor with the advice and consent of the senate. The supervisor shall appoint such agents, assistants, deputies and inspectors as limited by appropriations. All employees shall have the qualifications provided by law and may be removed by the supervisor or director of the department as provided in section 311.670.

4. **[**The director of public safety, superintendent of the highway patrol and transportation division of the department of economic development are to examine the motor carrier inspection laws and practices in Missouri to determine how best to enforce the laws with a minimum of duplication, harassment of carriers and to improve the effectiveness of supervision of weight and safety requirements and to report to the governor and general assembly by January 1, 1975, on their findings and on any actions taken.

5. The Missouri division of highway safety is transferred by type I transfer to the department of public safety. The division shall be in charge of a director who shall be appointed by the director of the department.

6.**]** All the powers, duties and functions of the safety and fire prevention bureau of the department of public health and welfare are transferred by type I transfer to the director of public safety.

[7.**]** **5.** All the powers, duties and functions of the state fire marshal, chapter 320 and others, are transferred to the department of public safety by a type I transfer.

[8.**]** **6.** All the powers, duties and functions of the law enforcement assistance council administering federal grants, planning and the like relating to Public Laws 90-351, 90-445 and related acts of Congress are transferred by type I transfer to the director of public safety. The director of public safety shall appoint such advisory bodies as are required by federal laws or regulations. The council is abolished.

[9.**]** **7.** The director of public safety shall promulgate motor vehicle regulations and be ex officio a member of the safety compact commission in place of the director of revenue and all powers, duties and functions relating to chapter 307 are transferred by type I transfer to the director of public safety.

[10.**]** **8.** The office of adjutant general and the state militia are assigned to the department of public safety; provided, however, nothing herein shall be construed to interfere with the powers and duties of the governor as provided in Article IV, Section 6 of the Constitution of the state of Missouri or chapter 41.

[11.**]** **9.** All the powers, duties and functions of the Missouri boat commission, chapter 306 and others, are transferred by type I transfer to the "Missouri State Water Patrol", which is hereby created, in the department of public safety. The Missouri boat commission and the office of secretary to the commission are abolished. All deputy boat commissioners and all other employees of the commission who were employed on February 1, 1974, shall be transferred to the water patrol without further qualification. Effective January 1, 2011, all the powers, duties, and functions of the Missouri state water patrol are transferred to the division of water patrol within the Missouri state highway patrol as set out in section 43.390.

[12.**]** **10.** The Missouri veterans's commission, chapter 42, is assigned to the department of public safety.

[13.**]** **11.** Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

660.010. DEPARTMENT OF SOCIAL SERVICES CREATED — DIVISIONS AND AGENCIES ASSIGNED TO DEPARTMENT — DUTIES, POWERS — DIRECTOR'S APPOINTMENT. — 1. There is hereby created a "Department of Social Services" in charge of a director appointed by the governor, by and with the advice and consent of the senate. All the powers, duties and functions of the director of the department of public health and welfare, chapters 191 and 192, and others, not previously reassigned by executive reorganization plan number 2 of 1973 as submitted by the governor under chapter 26 except those assigned to the department of mental health, are transferred by type I transfer to the director of the department of social services and the office of the director, department of public health and welfare is abolished. The department of public health and welfare is abolished. All employees of the department of social services shall be covered by the provisions of chapter 36 except the director of the department and **[**his**]** **the director's** secretary, all division directors and their secretaries, and no more than three additional positions in each division which may be designated by the division director.

2. It is the intent of the general assembly in establishing the department of social services, as provided herein, to authorize the director of the department to coordinate the state's programs devoted to those unable to provide for themselves and for the rehabilitation of victims of social disadvantage. The director shall use the resources provided to the department to provide comprehensive programs and leadership striking at the roots of dependency, disability and abuse of society's rules with the purpose of improving service and economical operations. The department is directed to take all steps possible to consolidate and coordinate the field operations of the department to maximize service to the citizens of the state.

3. **[**All the powers, duties and functions of the division of welfare, chapters 205, 207, 208, 209, and 210 and others, are transferred by type I transfer to the "Division of Family Services" which is hereby created in the department of social services. The director of the division shall be appointed by the director of the department.**]** All references to the division of welfare shall hereafter be construed to mean the **[**division of family services of the**]** department of social services **or the appropriate division within the department**.

4. The state's responsibility under public law 452 of the eighty-eighth Congress and others, pertaining to the Office of Economic Opportunity, is transferred by type I transfer to the department of social services.

5. The state's responsibility under public law 73, Older Americans Act of 1965, of the eighty-ninth Congress is transferred by type I transfer to the department of social services.

6. All the powers, duties and functions vested by law in the curators of the University of Missouri relating to crippled children's services, chapter 201, are transferred by type I transfer to the department of social services.

7. All the powers, duties and functions vested in the state board of training schools, chapter 219 and others, are transferred by type I transfer to the "Division of Youth Services" hereby authorized in the department of social services headed by a director appointed by the director of the department. The state board of training schools shall be reconstituted as an advisory board on youth services, appointed by the director of the department. The advisory board shall visit each facility of the division as often as possible, shall file a written report with the director of the department and the governor on conditions they observed relating to the care and rehabilitative efforts in behalf of children assigned to the facility, the security of the facility and any other matters pertinent in their judgment. Copies of these reports shall be filed with the legislative library. Members of the advisory board shall receive reimbursement for their expenses and twenty-five dollars a day for each day they engage in official business relating to their duties. The members of the board shall be provided with identification means by the director of the division permitting immediate access to all facilities enabling them to make unannounced entrance to facilities they wish to inspect.

660.075. INTERMEDIATE CARE FACILITY FOR INTELLECTUALLY DISABLED — CERTIFICATE OF AUTHORIZATION NEEDED FOR PROVIDER AGREEMENT — EXCEPTION — CERTIFICATES NOT TO BE ISSUED, WHEN — NOTICE TO DEPARTMENT, WHEN. — 1. The **MO HealthNet** division **[**of medical services**]** shall not issue a provider agreement to an intermediate care facility for the mentally retarded provider after May 29, 1991, unless and until the department of mental health transmits a certification of authorization to provide services, provided, however, a profit or not-for-profit provider may operate a single home of six beds or less without issuance of a certificate to the **MO HealthNet** division **[**of medical services**]**. Such certification shall be provider specific and shall contain the number of beds authorized.

2. Notwithstanding any other provision of law to the contrary, any provider intending to operate an intermediate care facility for the mentally retarded in excess of those beds in existence on May 29, 1991, shall give notice to the department of mental health of any intent to do so between July first and October first of the fiscal year preceding the fiscal year in which they intend to operate such facility.

3. In addition to other good cause as established by administrative rules promulgated by the director of the department of mental health, such intermediate care facility for the mentally retarded operations as may be accommodated within the home and community-based waiver for the developmentally disabled shall be refused certificates of authorization by the department of mental health. The **MO HealthNet** division **[**of medical services**]** shall refuse intermediate care facility for the mentally retarded provider agreements to providers to whom the department of mental health has refused certificates of authorization.

660.130. RULES, REGULATIONS, FORMS — RULE REQUIREMENTS. — The department of social services shall design the forms and issue rules and regulations necessary to carry out the provisions of sections 660.100 to 660.136. No rule or portion of a rule promulgated under the authority of sections 660.100 to 660.136 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024. Such rules shall provide that in order for a homeowner to be eligible such homeowner shall have met federal energy conservation guidelines for insulation, or have made application for insulation under the department of natural resources program or like program offered in the state of Missouri. Large notices of the availability of this program shall be posted in application areas and local offices of the **family support** division **[**of family services**]**.

660.523. UNIFORM RULES FOR INVESTIGATION OF CHILD SEXUAL ABUSE CASES — TRAINING PROVIDED FOR DIVISION, STAFF. — 1. By January 1, 1991, using approved state child abuse and neglect federal grant funds, the department of social services shall develop uniform protocols for investigations of child sexual abuse cases pursuant to chapter 210 and shall provide training to **children's** division **[**of family services**]** employees who investigate reports of such cases.

2. The department of social services shall develop separate protocols for multiple-suspect and multiple-victim cases.

660.525. TREATMENT FOR CHILD SEXUAL ABUSE VICTIMS PROVIDED BY DIVISION, WHEN. — The **children's** division **[**of family services**]** may provide treatment services for child sexual abuse victims in instances where the perpetrator is not listed in section 210.110 as a person responsible for the care, custody and control of the child, if treatment funds are available and such treatment services are requested by the family of the child.

660.526. CHILD SEXUAL ABUSE CASES, ANNUAL TRAINING REQUIRED BY CHILDREN'S DIVISION. — The **children's** division **[**of family services**]** shall ensure that all employees and persons with contracts with the division and who specialize in either the treatment, prosecution, or investigation of child sexual abuse cases receive a minimum of fifteen hours of annual training. Such training shall be in the investigation, prosecution, treatment, nature, extent and causes of sexual abuse.

660.620. OFFICE OF ADVOCACY AND ASSISTANCE FOR SENIOR CITIZENS ESTABLISHED IN OFFICE OF LIEUTENANT GOVERNOR, DUTIES AND PROCEDURE. — 1. There is hereby established an "Office of Advocacy and Assistance for Senior Citizens" within the office of lieutenant governor.

2. The senior citizen advocate shall coordinate activities with the long-term care ombudsman program, as defined in section 660.600, on complaints made by or on behalf of senior citizens residing in long-term care facilities.

3. The senior citizen advocate shall conduct a suitable investigation into any actions complained of unless the senior citizen advocate finds that the complaint pertains to a matter outside the scope of the authority of the senior citizen advocate, the complainant has no substantive or procedural interest which is directly affected by the matter complained about, or the complaint is trivial, frivolous, vexatious or not made in good faith.

4. After completing his **or her** investigation of a complaint, the senior citizen advocate shall inform the complainant, the agency, official or employee of action recommended by the senior citizen advocate. The senior citizen advocate shall make such reports and recommendations to the affected agencies, the governor and the general assembly as **[**he**] the advocate** deems necessary to further the purposes of sections 660.620 and 660.625.

5. The senior citizen advocate shall, in conjunction with the **[**division of**] department of health and** senior services, act as a clearinghouse for information pertaining to and of interest to senior citizens and shall disseminate such information as is necessary to inform senior citizens of their rights and of governmental and nongovernmental services available to them.

660.690. PROTECTION AGAINST SPOUSAL IMPOVERISHMENT AND PREMATURE PLACEMENT IN INSTITUTIONAL CARE, DETERMINATION OF ELIGIBILITY FOR MEDICAID AND MEDICAL ASSISTANCE BENEFITS. — In order to protect the community spouse of an individual living in a residential care facility or assisted living facility, as defined in section 198.006, from impoverishment and to prevent premature placement in a more expensive, more restrictive environment, the **family support** division **[**of family services**]** shall comply with the provisions of subsection 6 of section 208.010 when determining the eligibility for benefits pursuant to section 208.030.

701.336. DEPARTMENT TO COOPERATE WITH FEDERAL GOVERNMENT — INFORMATION TO BE PROVIDED TO CERTAIN PERSONS — LEAD TESTING OF CHILDREN, STRATEGY TO INCREASE NUMBER. — 1. The department of health and senior services shall cooperate with the federal government in implementing subsections (d) and (e) of 15 U.S.C. 2685 to establish public education activities and an information clearinghouse regarding childhood lead poisoning. The department may develop additional educational materials on lead hazards to children, lead poisoning prevention, lead poisoning screening, lead abatement and disposal, and on health hazards during abatement.

2. The department of health and senior services and the department of social services, in collaboration with related not-for-profit organizations, health maintenance organizations, and the Missouri consolidated health care plan, shall devise an educational strategy to increase the number of children who are tested for lead poisoning under the Medicaid program. The goal of the educational strategy is to have seventy-five percent of the children who receive Medicaid tested for lead poisoning. The educational strategy shall be implemented over a three-year period and shall be in accordance with all federal laws and regulations.

3. The **children's** division **[**of family services**]**, in collaboration with the department of health and senior services, shall regularly inform eligible clients of the availability and desirability of lead screening and treatment services, including those available through the early and periodic screening, diagnosis, and treatment (EPSDT) component of the Medicaid program.

[33.753. PLAN TO INCREASE MINORITY BUSINESS TO BE PROVIDED TO THE GOVERNOR AND THE GENERAL ASSEMBLY, DUE WHEN. — The Missouri minority business advocacy commission, as established pursuant to section 33.752 shall, in addition to providing the governor with a plan to increase procurement from minority businesses by all state departments as provided in subsection 2 of section 33.752, also provide to the general assembly the findings of such plan and provide details of any recommended legislation that may be needed to carry out the provisions of the plan. The commission shall submit the plan and recommended legislation to the general assembly within six months of delivery of the original plan to the governor.**]**

[199.025. CHILD DAY CARE CENTER, AUTHORITY TO ORGANIZE — HOW PAID FOR — TO BE LICENSED BY DIVISION OF FAMILY SERVICES — EXPIRATION THIRTY DAYS AFTER TRANSFER OF MISSOURI REHABILITATION CENTER TO UNIVERSITY OF MISSOURI. — 1. Employees of the Missouri rehabilitation center may organize and file with the secretary of state an application as a not-for-profit corporation for the purpose of establishing a child day care center. The corporation so formed may enter into an agreement with the commissioner of administration for the lease of appropriate space at the rehabilitation center for use as the child day care center. The space at the center may be made available to the corporation at a rate to be established by the commissioner of administration.

2. The corporation may provide child day care at the Missouri rehabilitation center. The child day care center established by the corporation shall be licensed under the provisions of sections 210.201 to 210.245. The operation of the day care center shall be paid for by fees or charges, established by the corporation, and collected from those who use its services. The corporation may receive any private donations or grants from agencies of the federal government intended for the support of the child day care center.

3. This section shall terminate thirty days following the date notice is provided to the revisor of statutes that an agreement has been executed which transfers the Missouri rehabilitation center from the department of health and senior services to the board of curators of the University of Missouri.**]**

[620.483. DIVISION OF JOB DEVELOPMENT AND TRAINING, CRITERIA — PRIVATE INDUSTRY COUNCIL MANUAL — CENTRALIZED MEMBER ORIENTATION SESSION — WORKER ADJUSTMENT SERVICES — MINIMUM EXPENDITURE REQUIREMENTS, JOB TRAINING PARTNERSHIP ACT. — 1. The division of job development and training of the department of economic development and the private industry council, also referred to as PIC, located within each service delivery area, also referred to as SDA, as authorized by section 102 of the Job Training Reform Amendments of 1992, P.L. 102-367, shall adhere to the criteria in this section in order to more effectively enhance the state's job training efforts.

2. The division, with the advice and counsel of the Missouri training and employment council, shall develop a private industry council manual to provide a standardized, written introduction for new PIC members which explains the fundamental parts of the Job Training Partnership Act, the role of the private industry councils in fulfilling their statutory obligations, and to serve as a skill-building instrument in which PIC members can assume an effective leadership role.

3. Once a year, the division, in conjunction with the Missouri training and employment council, shall conduct a centralized PIC member orientation session. The session, open to all current PIC members, will provide training in the basic programs funded through the Job Training Partnership Act, the structure of the service delivery system, and training in federal and state work force development initiatives.

4. In accordance with section 101 of the Job Training Partnership Act, as amended, the Missouri training and employment council may make recommendations to the governor for the redesignation of service delivery areas.

5. Pursuant to section 302(c) of the federal Job Training Partnership Act, special state rapid response programs or worker adjustment services will be initiated by the division. Such activities may be conducted by state and local program operators and reviewed regularly by the division for performance and funding consideration.

6. A quorum of the full membership of each private industry council shall officially meet at least once every three months. A quorum shall not be deemed to be present unless at least fifty percent of the private sector appointees are in attendance.

7. Pursuant to section 302(c)(2) of the federal Job Training Partnership Act, ten percent discretionary funds may be retained by the division until at least six months into each program year. Such funds shall then be allocated to service delivery areas that have experienced recent layoffs.

8. Each private industry council shall immediately inform the division of job development and training whenever any vacancy occurs on the PIC or when the term of a member has expired. Positions on private industry councils whose members' terms have expired and who are not replaced within ninety days shall be considered as vacant.

9. The division of job development and training is authorized to establish a minimum expenditure requirement for funds allocated to the service delivery areas under the Job Training Partnership Act. Adjustments to service delivery area allocations may be made on subsequent program year funding when underexpenditure occurs. This expenditure requirement shall be in addition to the federal requirement that in each program year eighty-five percent of federal Job Training Partnership Act funds are obligated by each service delivery area.**]**

[660.060. TRANSFER OF DIVISION OF AGING TO THE DEPARTMENT OF HEALTH AND SENIOR SERVICES. — All authority, powers, duties, functions, records, personnel,

property, contracts, budgets, matters pending and other pertinent vestiges of the division of aging shall be transferred to the department of health and senior services.**]**

Approved July 2, 2014

HB 1300 [HCS HB 1300]

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

Allows fire protection district board of directors to meet without public notice in order to disburse funds necessary for the deployment of certain task forces

AN ACT to repeal section 321.200, RSMo, and to enact in lieu thereof one new section relating to fire protection district board meetings.

SECTION

A. Enacting clause.

321.200. Board meetings, quorum, vacancy — employment, suspension, discharge of employees — deployment of Missouri Task Force One or Urban Search and Rescue Task Force, emergency board meeting.

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

SECTION A. ENACTING CLAUSE. — Section 321.200, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 321.200, to read as follows:

321.200. BOARD MEETINGS, QUORUM, VACANCY — EMPLOYMENT, SUSPENSION, DISCHARGE OF EMPLOYEES — DEPLOYMENT OF MISSOURI TASK FORCE ONE OR URBAN SEARCH AND RESCUE TASK FORCE, EMERGENCY BOARD MEETING. — 1. **Except as otherwise provided in subsection 3,** the board shall meet regularly, not less than once each month, at a time and at some building in the district to be designated by the board. Notice of the time and place of future regular meetings shall be posted continuously at the firehouse or firehouses of the district. Additional meetings may be held, when the needs of the district so require, at a place regular meetings are held, and notice of the time and place shall be given to each member of the board. Meetings of the board shall be held and conducted in the manner required by the provisions of chapter 610. All minutes of meetings of the board and all other records of the fire protection district shall be available for public inspection at the main firehouse within the district by appointment with the secretary of the board within one week after a written request is made between the hours of 8:00 a.m. and 5:00 p.m. every day except Sunday. A majority of the members of the board shall constitute a quorum at any meeting and no business shall be transacted unless a quorum is present. The board, acting as a board, shall exercise all powers of the board, without delegation thereof to any other governmental or other body or entity or association, and without delegation thereof to less than a quorum of the board. Agents, employees, engineers, auditors, attorneys, firemen and any other member of the staff of the district may be employed or discharged only by a board which includes at least two directors; but any board of directors may suspend from duty any such person or staff member who willfully and deliberately neglects or refuses to perform his or her regular functions.

2. Any vacancy on the board shall be filled by the remaining elected members of the board, except when less than two elected members remain on the board any vacancy shall be filled by the circuit court of the county in which all or a majority of the district lies. The appointee or appointees shall act until the next biennial election at which a director or directors are elected to serve the remainder of the unexpired term.

3. Notwithstanding any provision of sections 610.015 and 610.020 to the contrary, when Missouri Task Force One or any Urban Search and Rescue Task Force is activated for deployment by the federal emergency management agency, state emergency management agency, or statewide mutual aid, a quorum of the board of directors of the affiliated fire protection district may meet in person, via telephone, facsimile, internet, or any other voice or electronic means, without public notice, in order to authorize by roll call vote the disbursement of funds necessary for the deployment.

4. In the event action is necessary under subsection 3 of this section, the board of directors of the affiliated fire protection district shall keep minutes of the emergency meeting and disclose during the next regularly scheduled meeting of the board that the emergency meeting was held, the action that precipitated calling the emergency meeting without notice, and that the minutes of the emergency meeting are available as a public record of the board.

Approved July 3, 2014

HB 1301 [HB 1301]

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

Modifies the Kansas City police retirement systems

AN ACT to repeal sections 86.900 and 86.1220, RSMo, and to enact in lieu thereof two new sections relating to Kansas City police retirement systems.

SECTION
A. Enacting clause.
86.900. Definitions.
86.1220. Cost-of-living adjustments in addition to base pension.

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

SECTION A. ENACTING CLAUSE. — Sections 86.900 and 86.1220, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 86.900 and 86.1220, to read as follows:

86.900. DEFINITIONS. — The following words and phrases as used in sections 86.900 to 86.1280 shall have the following meanings unless a different meaning is plainly required by the context:

(1) "Accumulated contributions", the sum of all amounts deducted from the compensation of a member and paid to the retirement board, together with all amounts paid to the retirement board by a member or by a member's beneficiary, for the purchase of prior service credits or any other purpose permitted under sections 86.900 to 86.1280;

(2) "Actuarial cost", the present value of a future payment or series of payments as calculated by applying the actuarial assumptions established according to subsection 8 of section 86.1270;

(3) "Beneficiary", any person entitled, either currently or conditionally, to receive pension or other benefits provided in sections 86.900 to 86.1280;

(4) "Board of police commissioners", the board composed of police commissioners authorized by law to employ and manage an organized police force in the cities;

(5) "City" or "cities", any city which now has or may hereafter have a population of more than three hundred thousand and less than seven hundred thousand inhabitants, or any city that

has made an election under section 86.910 to continue a police retirement system maintained under sections 86.900 to 86.1280;

(6) "Compensation", the basic wage or salary paid a member for any period on the basis of the member's rank and position, excluding bonuses, overtime pay, expense allowances, and other extraordinary compensation; except that, notwithstanding such provision, compensation for any year for any member shall not exceed the amount permitted to be taken into account under Section 401(a)(17) of the Internal Revenue Code as applicable to such year;

(7) "Consultant", unless otherwise specifically defined, a person retained by the retirement system as a special consultant on the problems of retirement, aging and related matters who, upon request of the retirement board, shall give opinions and be available to give opinions in writing or orally in response to such requests, as may be needed by the board;

(8) "Creditable service", service qualifying as a determinant of a member's pension or other benefit under sections 86.900 to 86.1280 by meeting the requirements specified in said sections or section 105.691;

(9) "Final compensation":

(a) For a Tier I member as described in subdivision (13) of this section, the average annual compensation of a member during the member's service if less than two years, or the twenty-four months of service for which the member received the highest salary whether consecutive or otherwise. In computing the average annual compensation of a member, compensation shall only be included for the periods in which the member made contributions as provided under section 86.1010 except as provided in subsection 3 of section **[**86.110**] 86.1110**;

(b) For a Tier II member as described in subdivision (13) of this section, the average annual compensation of a member during the member's service if less than three years, or the thirty-six months of service for which the member received the highest salary whether consecutive or otherwise. In computing the average annual compensation of a member, compensation shall only be included for the periods in which the member made contributions as provided under section 86.1010 except as provided in subsection 3 of section **[**86.110**] 86.1110**;

(c) For any period of time when a member is paid on a frequency other than monthly, the member's salary for such period shall be deemed to be the monthly equivalent of the member's annual rate of compensation for such period;

(10) "Fiscal year", for the retirement system, the fiscal year of the cities;

(11) "Internal Revenue Code", the United States Internal Revenue Code of 1986, as amended;

(12) "Medical board", not less than one nor more than three physicians appointed by the retirement board to arrange for and conduct medical examinations as directed by the retirement board;

(13) "Member", a member of the police retirement system as described in section 86.1090:

(a) "Tier I member", any person who became a member prior to August 28, 2013, and who remains a member on August 28, 2013, shall remain a Tier I member until such member's membership is terminated as described in section 86.1130;

(b) "Tier I surviving spouse", the surviving spouse of a Tier I member;

(c) "Tier II member", any person who became a member on or after August 28, 2013;

(d) "Tier II surviving spouse", the surviving spouse of a Tier II member;

(e) Any person whose membership is terminated as described in section 86.1130 and who reenters membership on or after August 28, 2013, shall become a member under paragraph (c) of this subdivision;

(14) "Pension", annual payments for life, payable monthly, at the times described in section 86.1030;

(15) "Pension fund", the fund resulting from contributions made thereto by the cities affected by sections 86.900 to 86.1280 and by the members of the police retirement system;

(16) "Police officer", an officer or member of the police department of the cities employed for compensation by the boards of police commissioners of the cities for police duty who holds

a rank or position for which an annual salary range is provided in section 84.480 or 84.510; in case of dispute as to whether any person is a police officer qualified for membership in the retirement system, the decision of the board of police commissioners shall be final;

(17) "Retirement board" or "board", the board provided in section 86.920 to administer the retirement system;

(18) "Retirement system", the police retirement system of the cities as defined in section 86.910;

(19) "Surviving spouse", when determining whether a person is entitled to benefits under sections 86.900 to 86.1280 by reason of surviving a member, shall include only:

(a) A person who was married to a member at the time of the member's death in the line of duty or from an occupational disease arising out of and in the course of the member's employment and who had not, after the member's death and prior to August 28, 2000, remarried;

(b) With respect to a member who retired or died prior to August 28, 1997, a spouse who survives such member, whose marriage to such member occurred at least two years before the member's retirement or at least two years before the member's death while in service, and who had not remarried anyone other than the member prior to August 28, 2000;

(c) With respect to a member who retired or died while in service after August 28, 1997, and before August 28, 2000, a spouse who survives such member, was married to such member at the time of such member's retirement or of such member's death while in service, and had not, after the member's death and prior to August 28, 2000, remarried; and

(d) With respect to a member who retires or dies in service after August 28, 2000, a spouse who survives a member and was married to such member at the time of such member's retirement or death while in service.

86.1220. COST-OF-LIVING ADJUSTMENTS IN ADDITION TO BASE PENSION. — 1. Provided that the retirement system shall remain actuarially sound, each of the following persons may receive, in addition to such person's base pension, a cost-of-living adjustment in an amount not to exceed three percent of such person's base pension during any one year:

(1) Every Tier I member who is retired and receiving a base pension from the retirement system; and

(2) Every Tier I surviving spouse who is receiving a base pension from the retirement system.

2. Provided that the retirement system shall remain actuarially sound, each of the following persons may receive, in addition to such person's base pension, a cost-of-living adjustment in an amount not to exceed three percent of such person's base pension during any one year as follows:

(1) Every Tier II member who retired with at least thirty-two years of creditable service shall be eligible in the year following retirement; and

(2) Every Tier II member who retired under subsection 1 of section 86.1151 with less than thirty-two years of creditable service shall be eligible in the year following the year in which they would have attained thirty-two years of creditable service had such member remained in active service; and

(3) Every Tier II member who retired under section **86.1180** shall be eligible in the year following retirement; and

(4) Every Tier II member who retired under section 86.1200 shall be eligible in the earlier of the year following the fifth year after retirement or the year following the year in which they would have attained thirty-two years of creditable service had such member remained in active service; and

(5) Every Tier II member who retired under subsection 3 of section 86.1151 shall be eligible in the year following the fifth year after retirement; and

(6) (a) Every Tier II surviving spouse of a member who, at the member's death, was receiving benefits including cost-of-living adjustments shall be eligible in the year following the most recent year when the decedent received a cost-of-living adjustment; and

(b) Every Tier II surviving spouse of a member who, at the member's death, was receiving benefits but who was not yet eligible for cost-of-living adjustments shall be eligible in the year when the decedent member would have become eligible had such decedent survived; and

(c) Every Tier II surviving spouse entitled to the benefit provided in subsection 1 of section 86.1260 shall be eligible in the year following the year of the member's death; and

(d) Every Tier II surviving spouse of a member who died with less than twenty-seven years of creditable service, entitled to benefits provided in subsection 1 of section 86.1240, and who is not eligible for the benefit provided in subsection 1 of section 86.1260, shall be eligible in the year following the fifth year after the member's death; and

(e) Every Tier II surviving spouse of a member who died with twenty-seven or more years of creditable service, entitled to benefits provided in subsection 1 of section 86.1240, and who is not eligible for the benefit provided in subsection 1 of section 86.1260, shall be eligible the later of the year following the year of the member's death or the year following the year in which the member would have attained thirty-two years of creditable service had such member remained in active service.

3. Provided that the retirement system shall remain actuarially sound, every child who, under subsection 2 of section 86.1250, is receiving the benefit, or a portion thereof, which would be payable to a surviving spouse of the member who was such child's parent, may receive each year such cost-of-living adjustment on such benefit as would have been payable on such benefit, or portion thereof, to such surviving spouse if living.

4. Upon the death of a Tier I member who has been retired and receiving a pension and who dies after September 28, 1987, the surviving spouse of such member entitled to receive a base pension under section 86.1240 or children of such member entitled to receive a base pension under subsection 2 of section 86.1250 shall receive an immediate percentage cost-of-living adjustment to their respective base pension equal to the total percentage cost-of-living adjustments received during such member's lifetime under this section, except that the adjustment provided by this subsection shall not be made to a base pension calculated under either subdivision (1) or paragraph (b) of subdivision (2) of subsection 2 of section 86.1240, either for a surviving spouse or for a child or children entitled to a base pension measured by the pension to which a qualified surviving spouse would be entitled, wherein such base pension is determined by a percentage of the amount being received by the deceased member at death.

5. Upon the death of a Tier II member who has been retired and receiving a pension, the surviving spouse of such member entitled to receive a base pension under section 86.1240 or children of such member entitled to receive a base pension under subsection 2 of section 86.1250 shall receive an immediate percentage cost-of-living adjustment to their respective base pension equal to the total percentage cost-of-living adjustments received during such member's lifetime under this section, except that the adjustment provided by this subsection shall not apply for any surviving spouse, or for a child or children entitled to benefits which would be received by a qualified surviving spouse, receiving a benefit pursuant to an election made under subdivision (1) of subsection 2 of section 86.1151.

6. For purposes of this section, the term "base pension" shall mean:

(1) For a member, the pension computed under the provisions of the law as of the date of retirement without regard to cost-of-living adjustments, as adjusted, if applicable, for any election made under subdivision (1) of subsection 2 of section 86.1151 or section 86.1210, but in all events not including any supplemental benefit under section 86.1230 or section 86.1231;

(2) For a surviving spouse, the base pension calculated for such spouse in accordance with the provisions of section 86.1240 or subdivision (3) of subsection 2 of section 86.1151, including any compensation as a consultant to which such surviving spouse is entitled under said section in lieu of a pension thereunder, but not including any supplemental benefit under section 86.1230 or section 86.1231; and

(3) For a member's surviving child who is entitled to receive part or all of the pension which would be received by the surviving spouse, if living, the base pension calculated for such surviving spouse in accordance with the provisions of section 86.1240 or subdivision (3) of

subsection 2 of section 86.1151, including any compensation as a consultant to which such spouse would be entitled under said section, if living, divided by the number of surviving children entitled to share in such pension under subsection 2 of section 86.1250.

7. The cost-of-living adjustment shall be an increase or decrease computed on the base pension amount by the retirement board in an amount that the board, in its discretion, determines to be satisfactory, but in no event shall the adjustment be more than three percent or reduce the pension to an amount less than the base pension. In determining and granting the cost-of-living adjustments, the retirement board shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section, including provisions for the manner of computation of such adjustments and the effective dates thereof. The retirement board shall provide for such adjustments to be determined once each year and granted on a date or dates to be chosen by the board, and may apply such adjustments in full to eligible members as provided in subsections 1 and 2 of this section who have retired during the year prior to such adjustments but who have not been retired for one full year and to the surviving spouse or applicable children of a member who has died during the year prior to such adjustments.

8. The determination of whether the retirement system will remain actuarially sound shall be made at the time any cost-of-living adjustment is granted. If at any time the retirement system ceases to be actuarially sound, pension payments shall continue as adjusted by increases theretofore granted. A member of the retirement board shall have no personal liability for granting increases under this section if that retirement board member in good faith relied and acted upon advice of a qualified actuary that the retirement system would remain actuarially sound.

9. If any benefit under subsection 1 of section 86.1250 on August 27, 2005, would be reduced by application of this section, such benefit shall continue thereafter without reduction, but any benefit so continued shall terminate at the time prescribed in subsection 1 of section 86.1250.

Approved June 4, 2014

HB 1302 [HCS HB 1302]

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

Specifies that Missourians have the right to heat their homes and businesses using wood-burning furnaces, stoves, fireplaces, and heaters

AN ACT to repeal section 643.055, RSMo, and to enact in lieu thereof one new section relating to the regulation of residential wood burning appliances.

SECTION

A. Enacting clause.

643.055. Commission may adopt rules for compliance with federal law — suspension, reinstatement — exemption, limitations — regulation of residential wood burning heaters or appliances prohibited legislative authorization.

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

SECTION A. ENACTING CLAUSE. — Section 643.055, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 643.055, to read as follows:

643.055. COMMISSION MAY ADOPT RULES FOR COMPLIANCE WITH FEDERAL LAW — SUSPENSION, REINSTATEMENT — EXEMPTION, LIMITATIONS — REGULATION OF

RESIDENTIAL WOOD BURNING HEATERS OR APPLIANCES PROHIBITED LEGISLATIVE AUTHORIZATION. — 1. Other provisions of law notwithstanding, the Missouri air conservation commission shall have the authority to promulgate rules and regulations, pursuant to chapter 536, to establish standards and guidelines to ensure that the state of Missouri is in compliance with the provisions of the federal Clean Air Act, as amended (42 U.S.C. Section 7401, et seq.). The standards and guidelines so established shall not be any stricter than those required under the provisions of the federal Clean Air Act, as amended; nor shall those standards and guidelines be enforced in any area of the state prior to the time required by the federal Clean Air Act, as amended. The restrictions of this section shall not apply to the parts of a state implementation plan developed by the commission to bring a nonattainment area into compliance and to maintain compliance when needed to have a United States Environmental Protection Agency approved state implementation plan. The determination of which parts of a state implementation plan are not subject to the restrictions of this section shall be based upon specific findings of fact by the air conservation commission as to the rules, regulations and criteria that are needed to have a United States Environmental Protection Agency approved plan.

2. The Missouri air conservation commission shall also have the authority to grant exceptions and variances from the rules set under subsection 1 of this section when the person applying for the exception or variance can show that compliance with such rules:

(1) Would cause economic hardship; or

(2) Is physically impossible; or

(3) Is more detrimental to the environment than the variance would be; or

(4) Is impractical or of insignificant value under the existing conditions.

3. The department shall not regulate the manufacture, performance, or use of residential wood burning heaters or appliances through a state implementation plan or otherwise, unless first specifically authorized to do so by the general assembly. No rule or regulation respecting the establishment or the enforcement of performance standards for residential wood burning heaters or appliances shall become effective unless and until first approved by the joint committee on administrative rules.

4. New rules or regulations shall not be applied to existing wood burning furnaces, stoves, fireplaces, or heaters that individuals are currently using as their source of heat for their homes or businesses. All wood burning furnaces, stoves, fireplaces, and heaters existing on August 28, 2014 shall be not subject to any rules or regulations enacted after such date. No employee of the state or state agency shall enforce any new rules or regulations against such existing wood burning furnaces, stoves, fireplaces, and heaters.

Approved June 20, 2014

HB 1303 [HCS HB 1303]

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

Establishes the Missouri Student Religious Liberties Act

AN ACT to amend chapter 160, RSMo, by adding thereto one new section relating to religious liberties of students.

SECTION

A. Enacting clause.

160.2500. Citation of act — discrimination based on religious viewpoint or expression prohibited — prayer and religious activities in school permitted, when — religious clothing and jewelry permitted — limited public policy forum authorized.

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

SECTION A. ENACTING CLAUSE. — Chapter 160, RSMo, is amended by adding thereto one new section, to be known as section 160.2500, to read as follows:

160.2500. CITATION OF ACT — DISCRIMINATION BASED ON RELIGIOUS VIEWPOINT OR EXPRESSION PROHIBITED — PRAYER AND RELIGIOUS ACTIVITIES IN SCHOOL PERMITTED, WHEN — RELIGIOUS CLOTHING AND JEWELRY PERMITTED — LIMITED PUBLIC POLICY FORUM AUTHORIZED. — 1. This section shall be known and may be cited as the "Missouri Student Religious Liberties Act".

2. A public school district shall not discriminate against students or parents on the basis of a religious viewpoint or religious expression. A school district shall treat a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the district treats a student's voluntary expression of a secular or other viewpoint on an otherwise permissible subject and shall not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

3. Students may express their beliefs about religion in homework, artwork, and other written and oral assignments free from discrimination based on the religious content of their submissions. Homework and classroom assignments shall be judged by ordinary academic standards of substance and relevance and against other legitimate pedagogical concerns identified by the school district. Students shall not be penalized or rewarded on account of the religious content of their work. If an assignment requires a student's viewpoints to be expressed in course work, artwork or other written or oral assignments, a public school district shall not penalize or reward a student on the basis of religious content or a religious viewpoint. In such an assignment, a student's academic work that expresses a religious viewpoint shall be evaluated based on ordinary academic standards of substance and relevance to the course curriculum or requirements of the course work or assignment.

4. Students in public schools may pray or engage in religious activities or religious expression before, during and after the school day in the same manner and to the same extent that students may engage in nonreligious activities or expression, provided that such religious expression or religious activities are not disruptive of scheduled instructional time or other educational activities and do not impede access to school facilities or mobility on school premises. Students may organize prayer groups, religious clubs, or other religious gatherings before, during and after school to the same extent that students are permitted to organize other noncurricular student activities and groups. Religious groups shall be given the same access to school facilities for assembling as is given to other noncurricular groups without discrimination based on the religious content of the student's expression. If student groups that meet for nonreligious activities are permitted to advertise or announce meetings of the groups, the school district shall not discriminate against groups that meet for prayer or other religious speech. A school district may disclaim school sponsorship of noncurricular groups and events in a manner that neither favors nor disfavors groups that meet to engage in prayer or religious speech.

5. Students in public schools may wear clothing, accessories and jewelry that display religious messages or religious symbols in the same manner and to the same extent that other types of clothing, accessories and jewelry that display messages or symbols are permitted, as specified in subsection 7 of section 167.166.

6. (1) To ensure that the school district does not discriminate against a student's publicly stated voluntary expression of a religious viewpoint, if any, and to eliminate any actual or perceived affirmative school sponsorship or attribution to the district of a student's expression of a religious viewpoint, if any, a school district shall adopt a policy, which shall include the establishment of a limited public forum for student speakers at all

school events at which a student is to publicly speak. The policy regarding the limited public forum shall also require the school district to:

(a) Provide the forum in a manner that does not discriminate against a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject;

(b) Provide a method, based on neutral criteria, for the selection of student speakers at school events and graduation ceremonies;

(c) Ensure that a student speaker does not engage in obscene, vulgar, offensively lewd or indecent speech; and

(d) State, in writing, orally, or both, that the student's speech does not reflect the endorsement, sponsorship, position or expression of the district.

(2) The school district disclaimer required by paragraph (d) of subdivision (1) of this subsection shall be provided at all graduation ceremonies. The school district shall also continue to provide the disclaimer at any other event in which a student speaks publicly for as long as a need exists to dispel confusion over the district's nonsponsorship of the student's speech.

(3) Student expression on an otherwise permissible subject shall not be excluded from the limited public forum because the subject is expressed from a religious viewpoint.

(4) All public school districts shall adopt and implement a local policy regarding a limited public forum and voluntary student expression of religious viewpoints.

7. The provisions of this section shall not be construed to authorize this state or any of its political subdivisions to either:

(1) Require any person to participate in prayer or in any other religious activity; or

(2) Violate the constitutional rights of any person.

8. The provisions of this section shall not be construed to limit the authority of any public school to do any of the following:

(1) Maintain order and discipline on the campus of the public school in a content and viewpoint neutral manner;

(2) Protect the safety of students, employees and visitors of the public school;

(3) Adopt and enforce policies and procedures regarding student speech at school, provided that the policies and procedures do not violate the rights of students as guaranteed by law.

9. The provisions of section 1.140 are applicable to this section.

Approved July 2, 2014

HB 1304 [SCS HCS HB 1304]

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

Changes the definition of "original package" of malt liquor for liquor licensing purposes to include cans and pouches

AN ACT to repeal sections 311.055 and 311.200, RSMo, and to enact in lieu thereof two new sections relating to intoxicating liquor, with an effective date for a certain section.

SECTION

A. Enacting clause.
311.055. License to manufacture not required, personal or family use — limitation — removal from premises permitted, when — inapplicability, when.
311.200. Licenses — retail liquor dealers — fees — applications.
B. Delayed effective date.

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

SECTION A. ENACTING CLAUSE. — Sections 311.055 and 311.200, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 311.055 and 311.200, to read as follows:

311.055. LICENSE TO MANUFACTURE NOT REQUIRED, PERSONAL OR FAMILY USE — LIMITATION — REMOVAL FROM PREMISES PERMITTED, WHEN — INAPPLICABILITY, WHEN. — 1. No person at least twenty-one years of age shall be required to obtain a license to manufacture intoxicating liquor, as defined in section 311.020, for personal or family use. The aggregate amount of intoxicating liquor manufactured per household shall not exceed two hundred gallons per calendar year if there are two or more persons over the age of twenty-one years in such household, or one hundred gallons per calendar year if there is only one person over the age of twenty-one years in such household. Any intoxicating liquor manufactured under this section **[**may**]** **shall** not be **sold or** offered for sale.

2. Beer brewed under this section may be removed from the premises where brewed for personal or family use, including use at organized **[**affairs**]** **events**, exhibitions, or competitions, such as home brewer contests, tastings, or judging. The use may occur off licensed retail premises, on any premises under a temporary retail license issued under sections 311.218, 311.482, 311.485, 311.486, or 311.487, or on any tax exempt organization's licensed premises as described in section 311.090.

3. Any beer brewed under this section used at an organized event where an admission fee is paid for entry, at which the beer is available without a separate charge, shall not be deemed a sale of beer, provided that the person who brewed the beer receives none of the proceeds from the admission fee and all consumption is conducted off licensed retail premises, under the premises of a temporary retail license issued under section 311.218, 311.482, 311.485, 311.486, or 311.487, or on any tax exempt organization's licensed premises as described in section 311.090.

311.200. LICENSES — RETAIL LIQUOR DEALERS — FEES — APPLICATIONS. — 1. No license shall be issued for the sale of intoxicating liquor in the original package, not to be consumed upon the premises where sold, except to a person engaged in, and to be used in connection with, the operation of one or more of the following businesses: a drug store, a cigar and tobacco store, a grocery store, a general merchandise store, a confectionery or delicatessen store, nor to any such person who does not have and keep in his store a stock of goods having a value according to invoices of at least one thousand dollars, exclusive of fixtures and intoxicating liquors. Under such license, no intoxicating liquor shall be consumed on the premises where sold nor shall any original package be opened on the premises of the vendor except as otherwise provided in this law. For every license for sale at retail in the original package, the licensee shall pay to the director of revenue the sum of one hundred dollars per year.

2. For a permit authorizing the sale of malt liquor not in excess of five percent by weight by grocers and other merchants and dealers in the original package direct to consumers but not for resale, a fee of fifty dollars per year payable to the director of the department of revenue shall be required. The phrase "original package" shall be construed and held to refer to any package containing **[**three**]** **one** or more standard bottles**, cans, or pouches** of beer. Notwithstanding the provisions of section 311.290, any person licensed pursuant to this subsection may also sell malt liquor at retail between the hours of 9:00 a.m. and midnight on Sunday.

3. For every license issued for the sale of malt liquor at retail by drink for consumption on the premises where sold, the licensee shall pay to the director of revenue the sum of fifty dollars per year. Notwithstanding the provisions of section 311.290, any person licensed pursuant to this

subsection may also sell malt liquor at retail between the hours of 9:00 a.m. and midnight on Sunday.

4. For every license issued for the sale of malt liquor and light wines containing not in excess of fourteen percent of alcohol by weight made exclusively from grapes, berries and other fruits and vegetables, at retail by the drink for consumption on the premises where sold, the licensee shall pay to the director of revenue the sum of fifty dollars per year.

5. For every license issued for the sale of all kinds of intoxicating liquor, at retail by the drink for consumption on premises of the licensee, the licensee shall pay to the director of revenue the sum of three hundred dollars per year, which shall include the sale of intoxicating liquor in the original package.

6. For every license issued to any railroad company, railway sleeping car company operated in this state, for sale of all kinds of intoxicating liquor, as defined in this chapter, at retail for consumption on its dining cars, buffet cars and observation cars, the sum of one hundred dollars per year. A duplicate of such license shall be posted in every car where such beverage is sold or served, for which the licensee shall pay a fee of one dollar for each duplicate license.

7. All applications for licenses shall be made upon such forms and in such manner as the supervisor of alcohol and tobacco control shall prescribe. No license shall be issued until the sum prescribed by this section for such license shall be paid to the director of revenue.

SECTION B. DELAYED EFFECTIVE DATE. — The repeal and reenactment of section 311.200 of this act shall take effect on January 1, 2015.

Approved June 27, 2014

HB 1320 [HB 1320]

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

Excuses breast-feeding mothers from jury service

AN ACT to repeal sections 191.918 and 494.430, RSMo, and to enact in lieu thereof two new sections relating to breast-feeding.

SECTION

A. Enacting clause.
191.918. Breast-feeding in public permitted — not sexual conduct, public indecency, or obscenity — no municipal ordinances to prohibit or restrict.
494.430. Persons entitled to be excused from jury service — determinations made by judge — undue or extreme physical or financial hardship defined — documentation required, when.

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

SECTION A. ENACTING CLAUSE. — Sections 191.918 and 494.430, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 191.918 and 494.430, to read as follows:

191.918. BREAST-FEEDING IN PUBLIC PERMITTED — NOT SEXUAL CONDUCT, PUBLIC INDECENCY, OR OBSCENITY — NO MUNICIPAL ORDINANCES TO PROHIBIT OR RESTRICT. — **1.** Notwithstanding any other provision of law to the contrary, a mother may, with **[**as much**]** discretion **[**as possible**]**, breast-feed her child **or express breast milk** in any public or private location where the mother is otherwise authorized to be.

2. The act of a mother breast-feeding a child or expressing breast milk in a public or private location where the mother and child are otherwise authorized to be shall not:

(1) Constitute sexual conduct or sexual contact as defined in section 566.010; or

(2) Be considered an act of public indecency, indecent exposure, sexual conduct, lewd touching, or obscenity or any other similar term for purposes of state or municipal law.

3. A municipality shall not enact an ordinance prohibiting or restricting a mother from breast-feeding a child or expressing breast milk in a public or private location where the mother and child are otherwise authorized to be.

494.430. PERSONS ENTITLED TO BE EXCUSED FROM JURY SERVICE — DETERMINATIONS MADE BY JUDGE — UNDUE OR EXTREME PHYSICAL OR FINANCIAL HARDSHIP DEFINED — DOCUMENTATION REQUIRED, WHEN. — 1. Upon timely application to the court, the following persons shall be excused from service as a petit or grand juror:

(1) Any person who has served on a state or federal petit or grand jury within the preceding two years;

(2) Any nursing mother, upon her request, and with a completed written statement from her physician to the court certifying she is a nursing mother;

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

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

[(4)**]** **(5)** Any person licensed as a health care provider as such term is defined in section 538.205, but only if such person provides a written statement to the court certifying that he or she is actually providing health care services to patients, and that the person's service as a juror would be detrimental to the health of the person's patients;

[(5)**]** **(6)** Any employee of a religious institution whose religious obligations or constraints prohibit their serving on a jury. The certification of the employment and obligation or constraint may be provided by the employee's religious supervisor.

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

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

4. Unless it is apparent to the court that the physical hardship would significantly impair the person's ability to serve as a juror, for purposes of sections 494.400 to 494.460 undue or extreme physical or financial hardship is limited to circumstances in which an individual would:

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

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

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

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

6. A person asking a judge to grant an excuse based on undue or extreme physical or financial hardship shall provide the judge with documentation as required by the judge, such as, but not limited to, federal and state income tax returns, medical statements from licensed physicians, proof of dependency or guardianship, and similar documents, which the judge finds

to clearly support the request to be excused. Failure to provide satisfactory documentation shall result in a denial of the request to be excused. Such documents shall be filed under seal.

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

Approved April 3, 2014

HB 1361 [CCS SS HB 1361]

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

Changes the laws regarding insurance

AN ACT to repeal sections 384.015, 384.017, 384.021, and 384.023, RSMo, and to enact in lieu thereof five new sections relating to domestic surplus lines insurers.

SECTION

A. Enacting clause.
384.015. Definitions.
384.017. Nonadmitted insurers, purchases from allowed, when.
384.018. Nonadmitted insurer deemed domestic surplus lines insurer, when — domestic insurer deemed eligible surplus lines insurer, when — policies subject to taxation, when — exemption from certain statutory requirements, when — rulemaking authority.
384.021. Nonadmitted insurers, limitation on furnishing coverage — exempt commercial purchaser, licensee exemptions.
384.023. Unlisted nonadmitted insurers may be used for coverage, when — requirements.

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

SECTION A. ENACTING CLAUSE. — Sections 384.015, 384.017, 384.021, and 384.023, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 384.015, 384.017, 384.018, 384.021, and 384.023, to read as follows:

384.015. DEFINITIONS. — As used in sections 384.011 to 384.071, the following terms shall mean:

(1) "Admitted insurer", an insurer licensed to do an insurance business in this state;

(2) "Capital", funds paid in for stock or other evidence of ownership;

(3) "Director", the director of the department of insurance, financial institutions and professional registration;

(4) **"Domestic surplus lines insurer", a nonadmitted insurer that is domiciled in this state with which a surplus lines licensee may place only surplus lines insurance;**

(5) "Eligible surplus lines insurer", a nonadmitted insurer with which a surplus lines licensee may place surplus lines insurance;

[(5)**]** **(6)** "Exempt commercial purchaser", any person purchasing commercial insurance that, at the time of placement, meets the following requirements:

(a) The person employs or retains a qualified risk manager to negotiate insurance coverage;

(b) The person has paid aggregate nationwide commercial property and casualty insurance premiums in excess of one hundred thousand dollars in the immediately preceding twelve months; and

(c) a. The person meets at least one of the following criteria:

(i) The person possesses a net worth in excess of twenty million dollars, as such amount is adjusted under subparagraph b. of this paragraph;

(ii) The person generates annual revenues in excess of fifty million dollars, as such amount is adjusted under subparagraph b. of this paragraph;

(iii) The person employs more than five hundred full-time or full-time equivalent employees per individual insured or is a member of an affiliated group employing more than one thousand employees in the aggregate;

(iv) The person is a not-for-profit organization or public entity generating annual budgeted expenditures of at least thirty million dollars, as such amount is adjusted under subparagraph b. of this paragraph; or

(v) The person is a municipality with a population in excess of fifty thousand persons.

b. Effective on the fifth January first occurring after the date of the enactment of United States Public Law 111-203 and each fifth January first occurring thereafter, the amounts in items (i), (ii), and (iv) of subparagraph a. of this paragraph shall be adjusted to reflect the percentage change for such five-year period in the Consumer Price Index for All Urban Consumers published by the United States Bureau of Labor Statistic of the Department of Labor;

[(6)**] (7)** "Export", to place surplus lines insurance with a nonadmitted insurer;

[(7)**] (8)** "Home state":

(a) Except as provided in paragraph (b) of this subdivision, the term "home state" means, with respect to an insured:

a. The state in which an insured maintains its principal place of business or, in the case of an individual, the individual's principal residence; or

b. If one hundred percent of the insured risk is located out of the state referred to in subparagraph a. of this paragraph, the state to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated;

(b) If more **[**than one insured**] insureds than one** from an affiliated group are named insureds on a single nonadmitted insurance contract, the term "home state" means the home state, as determined under paragraph (a) of this subdivision, of the member of the affiliated group that has the largest percentage of premium attributed to it under such insurance contract;

(c) The principal place of business is the state where the insured maintains its headquarters and where the insured's high-level officers direct, control and coordinate the business activities of the insured;

[(8)**] (9)** "Kind of insurance", one of the types of insurance required to be reported in the annual statement which must be filed with the director by admitted insurers;

[(9)**] (10)** "Nonadmitted insurance", any property and casualty insurance permitted to be placed directly or through a surplus lines licensee with a nonadmitted insurer eligible to accept such insurance;

[(10)**] (11)** "Nonadmitted insurer", an insurer not licensed to do an insurance business in this state, including insurance exchanges authorized under the laws of other states**, but does not include a risk retention group, as that term is defined in the Liability Risk Retention Act of 1986 (15 U.S.C. Section 3901(a)(4))**;

[(11)**] (12)** "Producing broker", the individual broker or agent dealing directly with the party seeking insurance;

[(12)**] (13)** "Qualified risk manager", shall have the same meaning prescribed in the Nonadmitted and Reinsurance Reform Act of 2010 (15 U.S.C. Section 8206);

[(13)**] (14)** "Surplus", funds over and above liabilities and capital of the company for the protection of policyholders;

[(14)**] (15)** "Surplus lines insurance", any insurance of risks resident, located or to be performed in this state, permitted to be placed through a surplus lines licensee with a nonadmitted insurer eligible to accept such insurance, other than reinsurance, and life and health insurance and annuities;

[(15)**]** **(16)** "Surplus lines licensee", a person licensed to place insurance on risks resident, located or to be performed in this state with nonadmitted insurers eligible to accept such insurance;

[(16)**]** **(17)** "Wet marine and transportation insurance":

(a) Insurance upon vessels, crafts, hulls and of interests therein or with relation thereto;

(b) Insurance of marine builder's risks, marine war risks and contracts of marine protection and indemnity insurance;

(c) Insurance of freights and disbursements pertaining to a subject of insurance coming within this section; and

(d) Insurance of personal property and interests therein, in the course of exportation from or importation into any country, or in the course of transportation coastwise or on inland waters, including transportation by land, water or air from point of origin to final destination, in connection with any and all risks or periods of navigation, transit or transportation, and while being prepared for and while awaiting shipment, and during any delays, transshipment, or reshipment incident thereto.

384.017. NONADMITTED INSURERS, PURCHASES FROM ALLOWED, WHEN. — Surplus lines insurance may be placed by a surplus lines licensee if:

(1) Each insurer is an eligible surplus lines insurer;

(2) **[**Each insurer is authorized to write the type of insurance in its domiciliary jurisdiction;

(3)**]** The full amount or kind of insurance is not obtainable from admitted insurers who are actually transacting in this state the class of insurance required by the insured. Insurance shall be deemed obtainable within the meaning of this section if there is available a market with admitted insurers that can supply the insured's requirements both as to type of coverage and as to quality of service. "Type of coverage", as used in this section, refers to hazards covered and limits of coverage. "Quality of security and service", as used in this section, refers to the rating by a recognized financial service; and

[(4)**]** **(3)** All other requirements of sections 384.011 to 384.071 are met.

384.018. NONADMITTED INSURER DEEMED DOMESTIC SURPLUS LINES INSURER, WHEN — DOMESTIC INSURER DEEMED ELIGIBLE SURPLUS LINES INSURER, WHEN — POLICIES SUBJECT TO TAXATION, WHEN — EXEMPTION FROM CERTAIN STATUTORY REQUIREMENTS, WHEN — RULEMAKING AUTHORITY. — 1. A nonadmitted insurer that is domiciled in this state will be deemed a domestic surplus lines insurer if all of the following are satisfied:

(1) The insurer possesses policyholder surplus of at least twenty million dollars;

(2) The insurer is an approved or eligible surplus lines insurer in at least one jurisdiction other than this state;

(3) The board of directors of the insurer has passed a resolution seeking to be a domestic surplus lines insurer in this state; and

(4) The director has given written approval for the insurer to be a domestic surplus lines insurer.

2. For the purposes of the federal Nonadmitted and Reinsurance Act of 2010 (15 U.S.C. Section 8201), a domestic surplus lines insurer shall be considered a nonadmitted insurer as the term is defined in the Act with respect to risks insured in this state.

3. A domestic surplus lines insurer is deemed an eligible surplus lines insurer authorized to write any kind of insurance that a nonadmitted insurer not domiciled in this state is eligible to write.

4. Notwithstanding any other statute, the policies issued in this state by a domestic surplus lines insurer shall be subject to taxes assessed upon surplus lines policies issued by nonadmitted insurers, including the surplus lines premium tax under section 384.059, but will not be subject to other taxes levied upon admitted insurers whether domestic or foreign, including, but not limited to, taxes imposed by section 148.320.

5. Policies issued by a domestic surplus lines insurer are not subject to protections of, or other provisions of the Missouri property and casualty insurance guarantee association act, or the Missouri life and health insurance guaranty association act.

6. All financial and solvency requirements imposed by chapters 374, 375, 379, and 382 upon domestic admitted insurers shall apply to domestic surplus lines insurers unless domestic surplus lines insurers are otherwise specifically exempted.

7. A domestic surplus lines insurer shall not be subject to and shall be exempt from all statutory requirements relating to insurance rating plans, policy forms, policy cancellation and nonrenewal, and premium charged to the insured in the same manner and to the same extent as a nonadmitted insurer domiciled in another state.

8. The director may promulgate rules under section 374.045 and amend such rules relating to domestic surplus lines insurers as are necessary to enable the director to carry out the provisions of chapter 384.

384.021. NONADMITTED INSURERS, LIMITATION ON FURNISHING COVERAGE — EXEMPT COMMERCIAL PURCHASER, LICENSEE EXEMPTIONS. — 1. A surplus lines licensee shall not place coverage with a nonadmitted insurer, unless, at the time of placement, the surplus lines licensee has determined that the nonadmitted insurer:

(1) **Is authorized to write the kind of insurance in its domiciliary jurisdiction and meets one of these criteria:**

(a) Has capital and surplus or its equivalent under the laws of its domiciliary jurisdiction, which equals the greater of the minimum capital and surplus requirements under the laws of this state or fifteen million dollars, except that the requirements of this subdivision may be satisfied by an insurer's possessing less than the minimum capital and surplus upon an affirmative finding of acceptability by the director provided that the finding shall be based upon such factors as quality of management, capital and surplus of any parent company, company underwriting profit and investment income trends, market availability and company record and reputation within the industry, and in no event shall the director make an affirmative finding of acceptability when the nonadmitted insurer's capital and surplus is less than four million five hundred thousand dollars; **[**and**]** **or**

[(2)**]** **(b)** Appears on the most recent list of eligible surplus lines insurers published by the director from time to time but at least semiannually or on the most recent quarterly listing of alien insurers maintained by the international insurers department of the National Association of Insurance Commissioners.

2. Notwithstanding any other provision of this chapter or rules adopted to implement the provisions of this chapter, a surplus lines licensee seeking to procure or place nonadmitted insurance in Missouri for an exempt commercial purchaser shall not be required to satisfy any requirement to make a due diligence search to determine whether the full amount or type of insurance sought by such exempt commercial purchaser can be obtained from nonadmitted insurers if:

(1) The surplus lines licensee procuring or placing the surplus lines insurance has disclosed to the exempt commercial purchaser that such insurance may or may not be available from the admitted market that may provide greater protection with more regulatory oversight; and

(2) The exempt commercial purchaser has subsequently requested in writing the surplus lines licensee to procure or place such insurance from a nonadmitted insurer.

384.023. UNLISTED NONADMITTED INSURERS MAY BE USED FOR COVERAGE, WHEN — REQUIREMENTS. — **[**Only that portion of any**]** Risk eligible for export **[**for which the full amount of coverage is not procurable from eligible surplus lines insurers**]** may be placed with any other nonadmitted insurer which does not appear on the list of eligible surplus lines insurers published by the director pursuant to **paragraph (b) of** subdivision **[**(4)**]** **(1) of subsection 1** of section 384.021 but nonetheless meets the requirements set forth in **[**subdivisions (1) to (3)**]** **paragraph**

(a) of subdivision (1) of subsection 1 of section 384.021 and **[**any**]** **related complying** regulations of the director. The surplus lines licensee seeking to provide coverage through an unlisted nonadmitted insurer shall make a filing specifying the amount and percentage of each risk to be placed, and naming the nonadmitted insurer with which placement is intended **and shall pay the tax due pursuant to section 384.059**. Within twenty days after placing the coverage, the surplus lines licensee shall also send written notice to the insured or the producing broker that the insurance, or a portion thereof, has been placed with such nonadmitted insurer.

Approved June 19, 2014

HB 1371 [SS SCS HCS HB 1371]

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

Changes the laws regarding the Missouri Criminal Code

AN ACT to repeal sections 160.261, 167.115, 167.171, 188.030, 195.130, 210.117, 211.038, 217.010, 217.703, 260.211, 260.212, 556.061, 558.019, 559.036, 559.106, 559.115, 559.633, 565.002, 565.073, 566.135, 566.147, 566.148, 566.149, 577.001, 577.010, 577.020, 577.037, 577.041, and 660.315, RSMo, and section 476.055 as enacted by senate committee substitute for house bill no. 1460 merged with conference committee substitute for house committee substitute for senate bill no. 628, ninety-sixth general assembly, second regular session, section 476.055 as enacted by conference committee substitute for house committee substitute for senate bill no. 636, ninety-sixth general assembly, second regular session, and sections 160.261, 167.115, 167.171, 188.030, 197.1036, 210.117, 211.038, 217.010, 217.703, 260.211, 260.212, 476.055, 545.940, 556.061, 558.019, 559.036, 559.106, 559.115, 559.633, 565.002, 565.073, 566.147, 566.148, 566.149, 577.001, 577.010, 577.013, 577.020, 577.037, 577.041, 579.060, and 579.105 as enacted by house committee substitute for senate substitute for senate committee substitute for senate bill no. 491, ninety-seventh general assembly, second regular session, and to enact in lieu thereof thirty-two new sections relating to the Missouri criminal code restructuring, with penalty provisions and an effective date for certain sections.

SECTION

A. Enacting clause.

160.261. Discipline, written policy established by local boards of education — contents — reporting requirements — additional restrictions for certain suspensions — weapons offense, mandatory suspension or expulsion — no civil liability for authorized personnel — spanking not child abuse, when — investigation procedure — officials falsifying reports, penalty.

167.115. Juvenile officer or other law enforcement authority to report to superintendent, when, how — superintendent to report certain acts, to whom — notice of suspension or expulsion to court — superintendent to consult.

167.171. Summary suspension of pupil — appeal — grounds for suspension — procedure — conference required, when — statewide suspension, when.

188.030. Abortion of viable unborn child prohibited, exceptions — physician duties — violations, penalty — severability — right of intervention, when.

197.1036. Employee disqualification list, notification of placement, contents — challenge of allegation, procedure — hearing, procedure — appeal — removal of name from list — list provided to whom — prohibition of employment.

210.117. Child not reunited with parents or placed in a home, when.

211.038. Children not to be reunited with parents or placed in a home, when — discretion to return, when.

217.010. Definitions.

217.703. Earned compliance credits awarded, when.

260.211. Demolition waste, criminal disposition of — penalties — conspiracy.

260.212. Solid waste, criminal disposition of — penalties — conspiracy.

476.055. Statewide court automation fund created, administration, committee, members — powers, duties, limitation — unauthorized release of information, penalty — report — expiration date.
476.055. Statewide court automation fund created, administration, committee, members — powers, duties, limitation — unauthorized release of information, penalty — report — expiration date.
545.940. Defendant may be tested for various sexually transmitted diseases, when.
556.061. Code definitions.
558.019. Prior felony convictions, minimum prison terms — prison commitment defined — dangerous felony, minimum term prison term, how calculated — sentencing commission created, members, duties — expenses — cooperation with commission — restorative justice methods — restitution fund.
559.036. Duration of probation — revocation.
559.106. Lifetime supervision of certain sexual offenders — electronic monitoring — termination at age sixty-five permitted, when.
559.115. Appeals, probation not to be granted, when — probation granted after delivery to department of corrections, time limitation, assessment — one hundred twenty day program — notification to state, when, hearing — no probation in certain cases.
559.633. Court to order participation in program, when — fees determined by department of corrections — supplemental fee to be deposited in correctional substance abuse earnings fund.
565.002. Definitions.
565.073. Domestic assault, second degree — penalty.
566.147. Certain offenders not to reside within one thousand feet of a school or child care facility.
566.148. Certain offenders not to physically be present or loiter within five hundred feet of a child care facility — violation, penalty.
566.149. Certain offenders not to be present within five hundred feet of school property, exception — permission required for parents or guardians who are offenders, procedure — penalty.
577.001. Chapter definitions.
577.010. Driving while intoxicated — sentencing restrictions.
577.013. Boating while intoxicated — sentencing restrictions.
577.020. Chemical tests for alcohol content of blood — consent implied, when — administered, when, how — information available to person tested, contents — videotaping of chemical or field sobriety test admissible evidence.
577.037. Chemical tests, results admitted into evidence, when, effect of.
577.041. Refusal to submit to chemical test — admissibility — request to include reasons and effect of refusal.
579.060. Unlawful sale, distribution, or purchase of over-the-counter methamphetamine precursor drugs — violation, penalty.
579.105. Keeping or maintaining a public nuisance — violation, penalty..
160.261. Discipline, written policy established by local boards of education — contents — reporting requirements — additional restrictions for certain suspensions — weapons offense, mandatory suspension or expulsion — no civil liability for authorized personnel — spanking not child abuse, when — investigation procedure — officials falsifying reports, penalty.
167.115. Juvenile officer or other law enforcement authority to report to superintendent, when, how — superintendent to report certain acts, to whom — notice of suspension or expulsion to court — superintendent to consult.
167.171. Summary suspension of pupil — appeal — grounds for suspension — procedure — conference required, when — statewide suspension, when.
188.030. Abortion of viable unborn child prohibited, exceptions — physician duties — violations, penalty — severability — right of intervention, when.
197.1036. Employee disqualification list, notification of placement, contents — challenge of allegation, procedure — hearing, procedure — appeal — removal of name from list — list provided to whom — prohibition of employment.
210.117. Child not reunited with parents or placed in a home, when.
211.038. Children not to be reunited with parents or placed in a home, when — discretion to return, when.
217.010. Definitions.
217.703. Earned compliance credits awarded, when.
260.211. Demolition waste, criminal disposition of — penalties — conspiracy.
260.212. Solid waste, criminal disposition of — penalties — conspiracy.
476.055. Statewide court automation fund created, administration, committee, members — powers, duties, limitation — unauthorized release of information, penalty — report — expiration date.
545.940. Defendant may be tested for various sexually transmitted diseases, when.
556.061. Code definitions.
558.019. Prior felony convictions, minimum prison terms — prison commitment defined — dangerous felony, minimum term prison term, how calculated — sentencing commission created, members, duties — expenses — cooperation with commission — restorative justice methods — restitution fund.
559.036. Duration of probation — revocation.
559.106. Lifetime supervision of certain sexual offenders — electronic monitoring — termination at age sixty-five permitted, when.
559.115. Appeals, probation not to be granted, when — probation granted after delivery to department of corrections, time limitation, assessment — one hundred twenty day program — notification to state, when, hearing — no probation in certain cases.

559.633. Court to order participation in program, when — fees determined by department of corrections — supplemental fee to be deposited in correctional substance abuse earnings fund.
565.002. Definitions.
565.073. Domestic assault, second degree — penalty.
566.147. Certain offenders not to reside within one thousand feet of a school or child care facility.
566.148. Certain offenders not to physically be present or loiter within five hundred feet of a child care facility — violation, penalty.
566.149. Certain offenders not to be present within five hundred feet of school property, exception — permission required for parents or guardians who are offenders, procedure — penalty.
577.001. Chapter definitions.
577.010. Driving while intoxicated — sentencing restrictions.
577.013. Boating while intoxicated — sentencing restrictions.
577.020. Chemical tests for alcohol content of blood — consent implied, when — administered, when, how — information available to person tested, contents — videotaping of chemical or field sobriety test admissible evidence.
577.037. Chemical tests, results admitted into evidence, when, effect of.
577.041. Refusal to submit to chemical test — admissibility — request to include reasons and effect of refusal.
579.060. Unlawful sale, distribution, or purchase of over-the-counter methamphetamine precursor drugs — violation, penalty.
579.105. Keeping or maintaining a public nuisance — violation, penalty..
B. Delayed effective date.

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

SECTION A. ENACTING CLAUSE. — Sections 160.261, 167.115, 167.171, 188.030, 195.130, 210.117, 211.038, 217.010, 217.703, 260.211, 260.212, 556.061, 558.019, 559.036, 559.106, 559.115, 559.633, 565.002, 565.073, 566.135, 566.147, 566.148, 566.149, 577.001, 577.010, 577.020, 577.037, 577.041, and 660.315, RSMo, and section 476.055 as enacted by senate committee substitute for house bill no. 1460 merged with conference committee substitute for house committee substitute for senate bill no. 628, ninety-sixth general assembly, second regular session, section 476.055 as enacted by conference committee substitute for house committee substitute for senate bill no. 636, ninety-sixth general assembly, second regular session, and sections 160.261, 167.115, 167.171, 188.030, 197.1036, 210.117, 211.038, 217.010, 217.703, 260.211, 260.212, 476.055, 545.940, 556.061, 558.019, 559.036, 559.106, 559.115, 559.633, 565.002, 565.073, 566.147, 566.148, 566.149, 577.001, 577.010, 577.013, 577.020, 577.037, 577.041, 579.060, and 579.105 as enacted by house committee substitute for senate substitute for senate committee substitute for senate bill no. 491, ninety-seventh general assembly, second regular session, RSMo, are repealed and thirty-two new sections enacted in lieu thereof, to be known as sections 160.261, 167.115, 167.171, 188.030, 197.1036, 210.117, 211.038, 217.010, 217.703, 260.211, 260.212, 476.055, 545.940, 556.061, 558.019, 559.036, 559.106, 559.115, 559.633, 565.002, 565.073, 566.147, 566.148, 566.149, 577.001, 577.010, 577.013, 577.020, 577.037, 577.041, 579.060, and 579.105, to read as follows:

160.261. DISCIPLINE, WRITTEN POLICY ESTABLISHED BY LOCAL BOARDS OF EDUCATION — CONTENTS — REPORTING REQUIREMENTS — ADDITIONAL RESTRICTIONS FOR CERTAIN SUSPENSIONS — WEAPONS OFFENSE, MANDATORY SUSPENSION OR EXPULSION — NO CIVIL LIABILITY FOR AUTHORIZED PERSONNEL — SPANKING NOT CHILD ABUSE, WHEN — INVESTIGATION PROCEDURE — OFFICIALS FALSIFYING REPORTS, PENALTY. — 1. The local board of education of each school district shall clearly establish a written policy of discipline, including the district's determination on the use of corporal punishment and the procedures in which punishment will be applied. A written copy of the district's discipline policy and corporal punishment procedures, if applicable, shall be provided to the pupil and parent or legal guardian of every pupil enrolled in the district at the beginning of each school year and also made available in the office of the superintendent of such district, during normal business hours, for public inspection. All employees of the district shall annually receive instruction related to the specific contents of the policy of discipline and any interpretations necessary to implement the provisions of the policy in the course of their duties, including but not limited to approved

methods of dealing with acts of school violence, disciplining students with disabilities and instruction in the necessity and requirements for confidentiality.

2. The policy shall require school administrators to report acts of school violence to all teachers at the attendance center and, in addition, to other school district employees with a need to know. For the purposes of this chapter or chapter 167, "need to know" is defined as school personnel who are directly responsible for the student's education or who otherwise interact with the student on a professional basis while acting within the scope of their assigned duties. As used in this section, the phrase "act of school violence" or "violent behavior" means the exertion of physical force by a student with the intent to do serious physical injury as defined in **[**subdivision (6) of**]** section **[**565.002**]** **556.061** to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. The policy shall at a minimum require school administrators to report, as soon as reasonably practical, to the appropriate law enforcement agency any of the following crimes, or any act which if committed by an adult would be one of the following crimes:

(1) First degree murder under section 565.020;

(2) Second degree murder under section 565.021;

(3) Kidnapping under section 565.110 **as it existed prior to January 1, 2017, or kidnapping in the first degree under section 565.110**;

(4) First degree assault under section 565.050;

(5) Rape in the first degree under section 566.030;

(6) Sodomy in the first degree under section 566.060;

(7) Burglary in the first degree under section 569.160;

(8) Burglary in the second degree under section 569.170;

(9) Robbery in the first degree under section 569.020 **as it existed prior to January 1, 2017, or robbery in the first degree under section 570.023**;

(10) Distribution of drugs under section 195.211 **as it existed prior to January 1, 2017, or manufacture of a controlled substance under section 579.055**;

(11) Distribution of drugs to a minor under section 195.212 **as it existed prior to January 1, 2017, or delivery of a controlled substance under section 579.020**;

(12) Arson in the first degree under section 569.040;

(13) Voluntary manslaughter under section 565.023;

(14) Involuntary manslaughter under section 565.024 **as it existed prior to January 1, 2017, involuntary manslaughter in the first degree under section 565.024, or involuntary manslaughter in the second degree under section 565.027**;

(15) Second degree assault under section 565.060 **as it existed prior to January 1, 2017, or second degree assault under section 565.052**;

(16) Rape in the second degree under section 566.031;

(17) Felonious restraint under section 565.120 **as it existed prior to January 1, 2017, or kidnapping in the second degree under section 565.120**;

(18) Property damage in the first degree under section 569.100;

(19) The possession of a weapon under chapter 571;

(20) Child molestation in the first degree pursuant to section 566.067 **as it existed prior to January 1, 2017, or child molestation in the first, second, or third degree pursuant to section 566.067, 566.068, or 566.069**;

(21) Sodomy in the second degree pursuant to section 566.061;

(22) Sexual misconduct involving a child pursuant to section 566.083;

(23) Sexual abuse in the first degree pursuant to section 566.100;

(24) Harassment under section 565.090 **as it existed prior to January 1, 2017, or harassment in the first degree under section 565.090**; or

(25) Stalking under section 565.225 **as it existed prior to January 1, 2017, or stalking in the first degree under section 565.225**;

committed on school property, including but not limited to actions on any school bus in service on behalf of the district or while involved in school activities. The policy shall require that any portion of a student's individualized education program that is related to demonstrated or potentially violent behavior shall be provided to any teacher and other school district employees who are directly responsible for the student's education or who otherwise interact with the student on an educational basis while acting within the scope of their assigned duties. The policy shall also contain the consequences of failure to obey standards of conduct set by the local board of education, and the importance of the standards to the maintenance of an atmosphere where orderly learning is possible and encouraged.

3. The policy shall provide that any student who is on suspension for any of the offenses listed in subsection 2 of this section or any act of violence or drug-related activity defined by school district policy as a serious violation of school discipline pursuant to subsection 9 of this section shall have as a condition of his or her suspension the requirement that such student is not allowed, while on such suspension, to be within one thousand feet of any school property in the school district where such student attended school or any activity of that district, regardless of whether or not the activity takes place on district property unless:

(1) Such student is under the direct supervision of the student's parent, legal guardian, or custodian and the superintendent or the superintendent's designee has authorized the student to be on school property;

(2) Such student is under the direct supervision of another adult designated by the student's parent, legal guardian, or custodian, in advance, in writing, to the principal of the school which suspended the student and the superintendent or the superintendent's designee has authorized the student to be on school property;

(3) Such student is enrolled in and attending an alternative school that is located within one thousand feet of a public school in the school district where such student attended school; or

(4) Such student resides within one thousand feet of any public school in the school district where such student attended school in which case such student may be on the property of his or her residence without direct adult supervision.

4. Any student who violates the condition of suspension required pursuant to subsection 3 of this section may be subject to expulsion or further suspension pursuant to the provisions of sections 167.161, 167.164, and 167.171. In making this determination consideration shall be given to whether the student poses a threat to the safety of any child or school employee and whether such student's unsupervised presence within one thousand feet of the school is disruptive to the educational process or undermines the effectiveness of the school's disciplinary policy. Removal of any pupil who is a student with a disability is subject to state and federal procedural rights. This section shall not limit a school district's ability to:

(1) Prohibit all students who are suspended from being on school property or attending an activity while on suspension;

(2) Discipline students for off-campus conduct that negatively affects the educational environment to the extent allowed by law.

5. The policy shall provide for a suspension for a period of not less than one year, or expulsion, for a student who is determined to have brought a weapon to school, including but not limited to the school playground or the school parking lot, brought a weapon on a school bus or brought a weapon to a school activity whether on or off of the school property in violation of district policy, except that:

(1) The superintendent or, in a school district with no high school, the principal of the school which such child attends may modify such suspension on a case-by-case basis; and

(2) This section shall not prevent the school district from providing educational services in an alternative setting to a student suspended under the provisions of this section.

6. For the purpose of this section, the term "weapon" shall mean a firearm as defined under 18 U.S.C. 921 and the following items, as defined in section 571.010: a blackjack, a concealable firearm, an explosive weapon, a firearm, a firearm silencer, a gas gun, a knife, knuckles, a

machine gun, a projectile weapon, a rifle, a shotgun, a spring gun or a switchblade knife; except that this section shall not be construed to prohibit a school board from adopting a policy to allow a Civil War reenactor to carry a Civil War era weapon on school property for educational purposes so long as the firearm is unloaded. The local board of education shall define weapon in the discipline policy. Such definition shall include the weapons defined in this subsection but may also include other weapons.

7. All school district personnel responsible for the care and supervision of students are authorized to hold every pupil strictly accountable for any disorderly conduct in school or on any property of the school, on any school bus going to or returning from school, during school-sponsored activities, or during intermission or recess periods.

8. Teachers and other authorized district personnel in public schools responsible for the care, supervision, and discipline of schoolchildren, including volunteers selected with reasonable care by the school district, shall not be civilly liable when acting in conformity with the established policies developed by each board, including but not limited to policies of student discipline or when reporting to his or her supervisor or other person as mandated by state law acts of school violence or threatened acts of school violence, within the course and scope of the duties of the teacher, authorized district personnel or volunteer, when such individual is acting in conformity with the established policies developed by the board. Nothing in this section shall be construed to create a new cause of action against such school district, or to relieve the school district from liability for the negligent acts of such persons.

9. Each school board shall define in its discipline policy acts of violence and any other acts that constitute a serious violation of that policy. "Acts of violence" as defined by school boards shall include but not be limited to exertion of physical force by a student with the intent to do serious bodily harm to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. School districts shall for each student enrolled in the school district compile and maintain records of any serious violation of the district's discipline policy. Such records shall be made available to teachers and other school district employees with a need to know while acting within the scope of their assigned duties, and shall be provided as required in section 167.020 to any school district in which the student subsequently attempts to enroll.

10. Spanking, when administered by certificated personnel and in the presence of a witness who is an employee of the school district, or the use of reasonable force to protect persons or property, when administered by personnel of a school district in a reasonable manner in accordance with the local board of education's written policy of discipline, is not abuse within the meaning of chapter 210. The provisions of sections 210.110 to 210.165 notwithstanding, the children's division shall not have jurisdiction over or investigate any report of alleged child abuse arising out of or related to the use of reasonable force to protect persons or property when administered by personnel of a school district or any spanking administered in a reasonable manner by any certificated school personnel in the presence of a witness who is an employee of the school district pursuant to a written policy of discipline established by the board of education of the school district, as long as no allegation of sexual misconduct arises from the spanking or use of force.

11. If a student reports alleged sexual misconduct on the part of a teacher or other school employee to a person employed in a school facility who is required to report such misconduct to the children's division under section 210.115, such person and the superintendent of the school district shall report the allegation to the children's division as set forth in section 210.115. Reports made to the children's division under this subsection shall be investigated by the division in accordance with the provisions of sections 210.145 to 210.153 and shall not be investigated by the school district under subsections 12 to 20 of this section for purposes of determining whether the allegations should or should not be substantiated. The district may investigate the allegations for the purpose of making any decision regarding the employment of the accused employee.

12. Upon receipt of any reports of child abuse by the children's division other than reports provided under subsection 11 of this section, pursuant to sections 210.110 to 210.165 which allegedly involve personnel of a school district, the children's division shall notify the superintendent of schools of the district or, if the person named in the alleged incident is the superintendent of schools, the president of the school board of the school district where the alleged incident occurred.

13. If, after an initial investigation, the superintendent of schools or the president of the school board finds that the report involves an alleged incident of child abuse other than the administration of a spanking by certificated school personnel or the use of reasonable force to protect persons or property when administered by school personnel pursuant to a written policy of discipline or that the report was made for the sole purpose of harassing a public school employee, the superintendent of schools or the president of the school board shall immediately refer the matter back to the children's division and take no further action. In all matters referred back to the children's division, the division shall treat the report in the same manner as other reports of alleged child abuse received by the division.

14. If the report pertains to an alleged incident which arose out of or is related to a spanking administered by certificated personnel or the use of reasonable force to protect persons or property when administered by personnel of a school district pursuant to a written policy of discipline or a report made for the sole purpose of harassing a public school employee, a notification of the reported child abuse shall be sent by the superintendent of schools or the president of the school board to the law enforcement in the county in which the alleged incident occurred.

15. The report shall be jointly investigated by the law enforcement officer and the superintendent of schools or, if the subject of the report is the superintendent of schools, by a law enforcement officer and the president of the school board or such president's designee.

16. The investigation shall begin no later than forty-eight hours after notification from the children's division is received, and shall consist of, but need not be limited to, interviewing and recording statements of the child and the child's parents or guardian within two working days after the start of the investigation, of the school district personnel allegedly involved in the report, and of any witnesses to the alleged incident.

17. The law enforcement officer and the investigating school district personnel shall issue separate reports of their findings and recommendations after the conclusion of the investigation to the school board of the school district within seven days after receiving notice from the children's division.

18. The reports shall contain a statement of conclusion as to whether the report of alleged child abuse is substantiated or is unsubstantiated.

19. The school board shall consider the separate reports referred to in subsection 17 of this section and shall issue its findings and conclusions and the action to be taken, if any, within seven days after receiving the last of the two reports. The findings and conclusions shall be made in substantially the following form:

(1) The report of the alleged child abuse is unsubstantiated. The law enforcement officer and the investigating school board personnel agree that there was not a preponderance of evidence to substantiate that abuse occurred;

(2) The report of the alleged child abuse is substantiated. The law enforcement officer and the investigating school district personnel agree that the preponderance of evidence is sufficient to support a finding that the alleged incident of child abuse did occur;

(3) The issue involved in the alleged incident of child abuse is unresolved. The law enforcement officer and the investigating school personnel are unable to agree on their findings and conclusions on the alleged incident.

20. The findings and conclusions of the school board under subsection 19 of this section shall be sent to the children's division. If the findings and conclusions of the school board are that the report of the alleged child abuse is unsubstantiated, the investigation shall be terminated,

the case closed, and no record shall be entered in the children's division central registry. If the findings and conclusions of the school board are that the report of the alleged child abuse is substantiated, the children's division shall report the incident to the prosecuting attorney of the appropriate county along with the findings and conclusions of the school district and shall include the information in the division's central registry. If the findings and conclusions of the school board are that the issue involved in the alleged incident of child abuse is unresolved, the children's division shall report the incident to the prosecuting attorney of the appropriate county along with the findings and conclusions of the school board, however, the incident and the names of the parties allegedly involved shall not be entered into the central registry of the children's division unless and until the alleged child abuse is substantiated by a court of competent jurisdiction.

21. Any superintendent of schools, president of a school board or such person's designee or law enforcement officer who knowingly falsifies any report of any matter pursuant to this section or who knowingly withholds any information relative to any investigation or report pursuant to this section is guilty of a class A misdemeanor.

22. In order to ensure the safety of all students, should a student be expelled for bringing a weapon to school, violent behavior, or for an act of school violence, that student shall not, for the purposes of the accreditation process of the Missouri school improvement plan, be considered a dropout or be included in the calculation of that district's educational persistence ratio.

167.115. JUVENILE OFFICER OR OTHER LAW ENFORCEMENT AUTHORITY TO REPORT TO SUPERINTENDENT, WHEN, HOW — SUPERINTENDENT TO REPORT CERTAIN ACTS, TO WHOM — NOTICE OF SUSPENSION OR EXPULSION TO COURT — SUPERINTENDENT TO CONSULT. — 1. Notwithstanding any provision of chapter 211 or chapter 610 to the contrary, the juvenile officer, sheriff, chief of police or other appropriate law enforcement authority shall, as soon as reasonably practical, notify the superintendent, or the superintendent's designee, of the school district in which the pupil is enrolled when a petition is filed pursuant to subsection 1 of section 211.031 alleging that the pupil has committed one of the following acts:

(1) First degree murder under section 565.020;

(2) Second degree murder under section 565.021;

(3) Kidnapping under section 565.110 **as it existed prior to January 1, 2017, or kidnapping in the first degree under section 565.110**;

(4) First degree assault under section 565.050;

(5) Forcible rape under section 566.030 as it existed prior to August 28, 2013, or rape in the first degree under section 566.030;

(6) Forcible sodomy under section 566.060 as it existed prior to August 28, 2013, or sodomy in the first degree under section 566.060;

(7) Burglary in the first degree under section 569.160;

(8) Robbery in the first degree under section 569.020 **as it existed prior to January 1, 2017, or robbery in the first degree under section 570.023**;

(9) Distribution of drugs under section 195.211 **as it existed prior to January 1, 2017, or manufacture of a controlled substance under section 579.055**;

(10) Distribution of drugs to a minor under section 195.212 **as it existed prior to January 1, 2017, or delivery of a controlled substance under section 579.020**;

(11) Arson in the first degree under section 569.040;

(12) Voluntary manslaughter under section 565.023;

(13) Involuntary manslaughter under section 565.024 **as it existed prior to January 1, 2017, involuntary manslaughter in the first degree under section 565.024, or involuntary manslaughter in the second degree under section 565.027**;

(14) Second degree assault under section 565.060 **as it existed prior to January 1, 2017, or second degree assault under section 565.052**;

(15) Sexual assault under section 566.040 as it existed prior to August 28, 2013, or rape in the second degree under section 566.031;

(16) Felonious restraint under section 565.120 **as it existed prior to January 1, 2017, or kidnapping in the second degree under section 565.120**;

(17) Property damage in the first degree under section 569.100;

(18) The possession of a weapon under chapter 571;

(19) Child molestation in the first degree pursuant to section 566.067 **as it existed prior to January 1, 2017**;

(20) **Child molestation in the first, second, or third degree pursuant to sections 566.067, 566.068, or 566.069;**

(21) Deviate sexual assault pursuant to section 566.070 as it existed prior to August 28, 2013, or sodomy in the second degree under section 566.061;

[(21)**]** **(22)** Sexual misconduct involving a child pursuant to section 566.083; or

[(22)**]** **(23)** Sexual abuse pursuant to section 566.100 as it existed prior to August 28, 2013, or sexual abuse in the first degree under section 566.100.

2. The notification shall be made orally or in writing, in a timely manner, no later than five days following the filing of the petition. If the report is made orally, written notice shall follow in a timely manner. The notification shall include a complete description of the conduct the pupil is alleged to have committed and the dates the conduct occurred but shall not include the name of any victim. Upon the disposition of any such case, the juvenile office or prosecuting attorney or their designee shall send a second notification to the superintendent providing the disposition of the case, including a brief summary of the relevant finding of facts, no later than five days following the disposition of the case.

3. The superintendent or the designee of the superintendent shall report such information to teachers and other school district employees with a need to know while acting within the scope of their assigned duties. Any information received by school district officials pursuant to this section shall be received in confidence and used for the limited purpose of assuring that good order and discipline is maintained in the school. This information shall not be used as the sole basis for not providing educational services to a public school pupil.

4. The superintendent shall notify the appropriate division of the juvenile or family court upon any pupil's suspension for more than ten days or expulsion of any pupil that the school district is aware is under the jurisdiction of the court.

5. The superintendent or the superintendent's designee may be called to serve in a consultant capacity at any dispositional proceedings pursuant to section 211.031 which may involve reference to a pupil's academic treatment plan.

6. Upon the transfer of any pupil described in this section to any other school district in this state, the superintendent or the superintendent's designee shall forward the written notification given to the superintendent pursuant to subsection 2 of this section to the superintendent of the new school district in which the pupil has enrolled. Such written notification shall be required again in the event of any subsequent transfer by the pupil.

7. As used in this section, the terms "school" and "school district" shall include any charter, private or parochial school or school district, and the term "superintendent" shall include the principal or equivalent chief school officer in the cases of charter, private or parochial schools.

8. The superintendent or the designee of the superintendent or other school employee who, in good faith, reports information in accordance with the terms of this section and section 160.261 shall not be civilly liable for providing such information.

167.171. SUMMARY SUSPENSION OF PUPIL — APPEAL — GROUNDS FOR SUSPENSION — PROCEDURE — CONFERENCE REQUIRED, WHEN — STATEWIDE SUSPENSION, WHEN. — 1. The school board in any district, by general rule and for the causes provided in section 167.161, may authorize the summary suspension of pupils by principals of schools for a period not to exceed ten school days and by the superintendent of schools for a period not to exceed one

hundred and eighty school days. In case of a suspension by the superintendent for more than ten school days, the pupil, the pupil's parents or others having such pupil's custodial care may appeal the decision of the superintendent to the board or to a committee of board members appointed by the president of the board which shall have full authority to act in lieu of the board. Any suspension by a principal shall be immediately reported to the superintendent who may revoke the suspension at any time. In event of an appeal to the board, the superintendent shall promptly transmit to it a full report in writing of the facts relating to the suspension, the action taken by the superintendent and the reasons therefor and the board, upon request, shall grant a hearing to the appealing party to be conducted as provided in section 167.161.

2. No pupil shall be suspended unless:

(1) The pupil shall be given oral or written notice of the charges against such pupil;

(2) If the pupil denies the charges, such pupil shall be given an oral or written explanation of the facts which form the basis of the proposed suspension;

(3) The pupil shall be given an opportunity to present such pupil's version of the incident; and

(4) In the event of a suspension for more than ten school days, where the pupil gives notice that such pupil wishes to appeal the suspension to the board, the suspension shall be stayed until the board renders its decision, unless in the judgment of the superintendent of schools, or of the district superintendent, the pupil's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, in which case the pupil may be immediately removed from school, and the notice and hearing shall follow as soon as practicable.

3. No school board shall readmit or enroll a pupil properly suspended for more than ten consecutive school days for an act of school violence as defined in subsection 2 of section 160.261 regardless of whether or not such act was committed at a public school or at a private school in this state, provided that such act shall have resulted in the suspension or expulsion of such pupil in the case of a private school, or otherwise permit such pupil to attend school without first holding a conference to review the conduct that resulted in the expulsion or suspension and any remedial actions needed to prevent any future occurrences of such or related conduct. The conference shall include the appropriate school officials including any teacher employed in that school or district directly involved with the conduct that resulted in the suspension or expulsion, the pupil, the parent or guardian of the pupil or any agency having legal jurisdiction, care, custody or control of the pupil. The school board shall notify in writing the parents or guardians and all other parties of the time, place, and agenda of any such conference. Failure of any party to attend this conference shall not preclude holding the conference. Notwithstanding any provision of this subsection to the contrary, no pupil shall be readmitted or enrolled to a regular program of instruction if:

(1) Such pupil has been convicted of; or

(2) An indictment or information has been filed alleging that the pupil has committed one of the acts enumerated in subdivision (4) of this subsection to which there has been no final judgment; or

(3) A petition has been filed pursuant to section 211.091 alleging that the pupil has committed one of the acts enumerated in subdivision (4) of this subsection to which there has been no final judgment; or

(4) The pupil has been adjudicated to have committed an act which if committed by an adult would be one of the following:

(a) First degree murder under section 565.020;

(b) Second degree murder under section 565.021;

(c) First degree assault under section 565.050;

(d) Forcible rape under section 566.030 as it existed prior to August 28, 2013, or rape in the first degree under section 566.030;

(e) Forcible sodomy under section 566.060 as it existed prior to August 28, 2013, or sodomy in the first degree under section 566.060;

(f) Statutory rape under section 566.032;

(g) Statutory sodomy under section 566.062;

(h) Robbery in the first degree under section 569.020 **as it existed prior to January 1, 2017, or robbery in the first degree under section 570.023**;

(i) Distribution of drugs to a minor under section 195.212 **as it existed prior to January 1, 2017, or delivery of a controlled substance under section 579.020**;

(j) Arson in the first degree under section 569.040;

(k) Kidnapping **or kidnapping in the first degree**, when classified as a class A felony under section 565.110.

Nothing in this subsection shall prohibit the readmittance or enrollment of any pupil if a petition has been dismissed, or when a pupil has been acquitted or adjudicated not to have committed any of the above acts. This subsection shall not apply to a student with a disability, as identified under state eligibility criteria, who is convicted or adjudicated guilty as a result of an action related to the student's disability. Nothing in this subsection shall be construed to prohibit a school district which provides an alternative education program from enrolling a pupil in an alternative education program if the district determines such enrollment is appropriate.

4. If a pupil is attempting to enroll in a school district during a suspension or expulsion from another in-state or out-of-state school district including a private, charter or parochial school or school district, a conference with the superintendent or the superintendent's designee may be held at the request of the parent, court-appointed legal guardian, someone acting as a parent as defined by rule in the case of a special education student, or the pupil to consider if the conduct of the pupil would have resulted in a suspension or expulsion in the district in which the pupil is enrolling. Upon a determination by the superintendent or the superintendent's designee that such conduct would have resulted in a suspension or expulsion in the district in which the pupil is enrolling or attempting to enroll, the school district may make such suspension or expulsion from another school or district effective in the district in which the pupil is enrolling or attempting to enroll. Upon a determination by the superintendent or the superintendent's designee that such conduct would not have resulted in a suspension or expulsion in the district in which the student is enrolling or attempting to enroll, the school district shall not make such suspension or expulsion effective in its district in which the student is enrolling or attempting to enroll.

188.030. ABORTION OF VIABLE UNBORN CHILD PROHIBITED, EXCEPTIONS — PHYSICIAN DUTIES — VIOLATIONS, PENALTY — SEVERABILITY — RIGHT OF INTERVENTION, WHEN. — 1. Except in the case of a medical emergency, no abortion of a viable unborn child shall be performed or induced unless the abortion is necessary to preserve the life of the pregnant woman whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself, or when continuation of the pregnancy will create a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman. For purposes of this section, "major bodily function" includes, but is not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

2. Except in the case of a medical emergency:

(1) Prior to performing or inducing an abortion upon a woman, the physician shall determine the gestational age of the unborn child in a manner consistent with accepted obstetrical and neonatal practices and standards. In making such determination, the physician shall make such inquiries of the pregnant woman and perform or cause to be performed such medical examinations, imaging studies, and tests as a reasonably prudent physician, knowledgeable about the medical facts and conditions of both the woman and the unborn child involved, would consider necessary to perform and consider in making an accurate diagnosis with respect to gestational age;

(2) If the physician determines that the gestational age of the unborn child is twenty weeks or more, prior to performing or inducing an abortion upon the woman, the physician shall determine if the unborn child is viable by using and exercising that degree of care, skill, and proficiency commonly exercised by a skillful, careful, and prudent physician. In making this determination of viability, the physician shall perform or cause to be performed such medical examinations and tests as are necessary to make a finding of the gestational age, weight, and lung maturity of the unborn child and shall enter such findings and determination of viability in the medical record of the woman;

(3) If the physician determines that the gestational age of the unborn child is twenty weeks or more, and further determines that the unborn child is not viable and performs or induces an abortion upon the woman, the physician shall report such findings and determinations and the reasons for such determinations to the health care facility in which the abortion is performed and to the state board of registration for the healing arts, and shall enter such findings and determinations in the medical records of the woman and in the individual abortion report submitted to the department under section 188.052;

(4) (a) If the physician determines that the unborn child is viable, the physician shall not perform or induce an abortion upon the woman unless the abortion is necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy will create a serious risk of substantial and irreversible physical impairment of a major bodily function of the woman.

(b) Before a physician may proceed with performing or inducing an abortion upon a woman when it has been determined that the unborn child is viable, the physician shall first certify in writing the medical threat posed to the life of the pregnant woman, or the medical reasons that continuation of the pregnancy would cause a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman. Upon completion of the abortion, the physician shall report the reasons and determinations for the abortion of a viable unborn child to the health care facility in which the abortion is performed and to the state board of registration for the healing arts, and shall enter such findings and determinations in the medical record of the woman and in the individual abortion report submitted to the department under section 188.052.

(c) Before a physician may proceed with performing or inducing an abortion upon a woman when it has been determined that the unborn child is viable, the physician who is to perform the abortion shall obtain the agreement of a second physician with knowledge of accepted obstetrical and neonatal practices and standards who shall concur that the abortion is necessary to preserve the life of the pregnant woman, or that continuation of the pregnancy would cause a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman. This second physician shall also report such reasons and determinations to the health care facility in which the abortion is to be performed and to the state board of registration for the healing arts, and shall enter such findings and determinations in the medical record of the woman and the individual abortion report submitted to the department under section 188.052. The second physician shall not have any legal or financial affiliation or relationship with the physician performing or inducing the abortion, except that such prohibition shall not apply to physicians whose legal or financial affiliation or relationship is a result of being employed by or having staff privileges at the same hospital as the term "hospital" is defined in section 197.020.

(d) Any physician who performs or induces an abortion upon a woman when it has been determined that the unborn child is viable shall utilize the available method or technique of abortion most likely to preserve the life or health of the unborn child. In cases where the method or technique of abortion most likely to preserve the life or health of the unborn child would present a greater risk to the life or health of the woman than another legally permitted and available method or technique, the physician may utilize such other method or technique. In all cases where the physician performs an abortion upon a viable unborn child, the physician shall certify in writing the available method or techniques considered and the reasons for choosing the method or technique employed.

(e) No physician shall perform or induce an abortion upon a woman when it has been determined that the unborn child is viable unless there is in attendance a physician other than the physician performing or inducing the abortion who shall take control of and provide immediate medical care for a child born as a result of the abortion. During the performance of the abortion, the physician performing it, and subsequent to the abortion, the physician required to be in attendance, shall take all reasonable steps in keeping with good medical practice, consistent with the procedure used, to preserve the life or health of the viable unborn child; provided that it does not pose an increased risk to the life of the woman or does not pose an increased risk of substantial and irreversible physical impairment of a major bodily function of the woman.

3. Any person who knowingly performs or induces an abortion of an unborn child in violation of the provisions of this section is guilty of a class **[**C**] D** felony, and, upon a finding of guilt or plea of guilty, shall be imprisoned for a term of not less than one year, and, notwithstanding the provisions of section **[**560.011**] 558.002**, shall be fined not less than ten thousand nor more than fifty thousand dollars.

4. Any physician who pleads guilty to or is found guilty of performing or inducing an abortion of an unborn child in violation of this section shall be subject to suspension or revocation of his or her license to practice medicine in the state of Missouri by the state board of registration for the healing arts under the provisions of sections 334.100 and 334.103.

5. Any hospital licensed in the state of Missouri that knowingly allows an abortion of an unborn child to be performed or induced in violation of this section may be subject to suspension or revocation of its license under the provisions of section 197.070.

6. Any ambulatory surgical center licensed in the state of Missouri that knowingly allows an abortion of an unborn child to be performed or induced in violation of this section may be subject to suspension or revocation of its license under the provisions of section 197.220.

7. A woman upon whom an abortion is performed or induced in violation of this section shall not be prosecuted for a conspiracy to violate the provisions of this section.

8. Nothing in this section shall be construed as creating or recognizing a right to abortion, nor is it the intention of this section to make lawful any abortion that is currently unlawful.

9. It is the intent of the legislature that this section be severable as noted in section 1.140. In the event that any section, subsection, subdivision, paragraph, sentence, or clause of this section be declared invalid under the Constitution of the United States or the Constitution of the State of Missouri, it is the intent of the legislature that the remaining provisions of this section remain in force and effect as far as capable of being carried into execution as intended by the legislature.

10. The general assembly may, by concurrent resolution, appoint one or more of its members who sponsored or co-sponsored this act in his or her official capacity to intervene as a matter of right in any case in which the constitutionality of this law is challenged.

[660.315.] 197.1036. EMPLOYEE DISQUALIFICATION LIST, NOTIFICATION OF PLACEMENT, CONTENTS — CHALLENGE OF ALLEGATION, PROCEDURE — HEARING, PROCEDURE — APPEAL — REMOVAL OF NAME FROM LIST — LIST PROVIDED TO WHOM — PROHIBITION OF EMPLOYMENT. — 1. After an investigation and a determination has been made to place a person's name on the employee disqualification list, that person shall be notified in writing mailed to his or her last known address that:

(1) An allegation has been made against the person, the substance of the allegation and that an investigation has been conducted which tends to substantiate the allegation;

(2) The person's name will be included in the employee disqualification list of the department;

(3) The consequences of being so listed including the length of time to be listed; and

(4) The person's rights and the procedure to challenge the allegation.

2. If no reply has been received within thirty days of mailing the notice, the department may include the name of such person on its list. The length of time the person's name shall appear

on the employee disqualification list shall be determined by the director or the director's designee, based upon the criteria contained in subsection 9 of this section.

3. If the person so notified wishes to challenge the allegation, such person may file an application for a hearing with the department. The department shall grant the application within thirty days after receipt by the department and set the matter for hearing, or the department shall notify the applicant that, after review, the allegation has been held to be unfounded and the applicant's name will not be listed.

4. If a person's name is included on the employee disqualification list without the department providing notice as required under subsection 1 of this section, such person may file a request with the department for removal of the name or for a hearing. Within thirty days after receipt of the request, the department shall either remove the name from the list or grant a hearing and set a date therefor.

5. Any hearing shall be conducted in the county of the person's residence by the director of the department or the director's designee. The provisions of chapter 536 for a contested case except those provisions or amendments which are in conflict with this section shall apply to and govern the proceedings contained in this section and the rights and duties of the parties involved. The person appealing such an action shall be entitled to present evidence, pursuant to the provisions of chapter 536, relevant to the allegations.

6. Upon the record made at the hearing, the director of the department or the director's designee shall determine all questions presented and shall determine whether the person shall be listed on the employee disqualification list. The director of the department or the director's designee shall clearly state the reasons for his or her decision and shall include a statement of findings of fact and conclusions of law pertinent to the questions in issue.

7. A person aggrieved by the decision following the hearing shall be informed of his or her right to seek judicial review as provided under chapter 536. If the person fails to appeal the director's findings, those findings shall constitute a final determination that the person shall be placed on the employee disqualification list.

8. A decision by the director shall be inadmissible in any civil action brought against a facility or the in-home services provider agency and arising out of the facts and circumstances which brought about the employment disqualification proceeding, unless the civil action is brought against the facility or the in-home services provider agency by the department of health and senior services or one of its divisions.

9. The length of time the person's name shall appear on the employee disqualification list shall be determined by the director of the department of health and senior services or the director's designee, based upon the following:

(1) Whether the person acted recklessly or knowingly, as defined in chapter 562;

(2) The degree of the physical, sexual, or emotional injury or harm; or the degree of the imminent danger to the health, safety or welfare of a resident or in-home services client;

(3) The degree of misappropriation of the property or funds, or falsification of any documents for service delivery of an in-home services client;

(4) Whether the person has previously been listed on the employee disqualification list;

(5) Any mitigating circumstances;

(6) Any aggravating circumstances; and

(7) Whether alternative sanctions resulting in conditions of continued employment are appropriate in lieu of placing a person's name on the employee disqualification list. Such conditions of employment may include, but are not limited to, additional training and employee counseling. Conditional employment shall terminate upon the expiration of the designated length of time and the person's submitting documentation which fulfills the department of health and senior services' requirements.

10. The removal of any person's name from the list under this section shall not prevent the director from keeping records of all acts finally determined to have occurred under this section.

11. The department shall provide the list maintained pursuant to this section to other state departments upon request and to any person, corporation, organization, or association who:

(1) Is licensed as an operator under chapter 198;

(2) Provides in-home services under contract with the department;

(3) Employs nurses and nursing assistants for temporary or intermittent placement in health care facilities;

(4) Is approved by the department to issue certificates for nursing assistants training;

(5) Is an entity licensed under **this** chapter **[**197**]**;

(6) Is a recognized school of nursing, medicine, or other health profession for the purpose of determining whether students scheduled to participate in clinical rotations with entities described in subdivision (1), (2), or (5) of this subsection are included in the employee disqualification list; or

(7) Is a consumer reporting agency regulated by the federal Fair Credit Reporting Act that conducts employee background checks on behalf of entities listed in subdivisions (1), (2), (5), or (6) of this subsection. Such a consumer reporting agency shall conduct the employee disqualification list check only upon the initiative or request of an entity described in subdivisions (1), (2), (5), or (6) of this subsection when the entity is fulfilling its duties required under this section. The information shall be disclosed only to the requesting entity. The department shall inform any person listed above who inquires of the department whether or not a particular name is on the list. The department may require that the request be made in writing. No person, corporation, organization, or association who is entitled to access the employee disqualification list may disclose the information to any person, corporation, organization, or association who is not entitled to access the list. Any person, corporation, organization, or association who is entitled to access the employee disqualification list who discloses the information to any person, corporation, organization, or association who is not entitled to access the list shall be guilty of an infraction.

12. No person, corporation, organization, or association who received the employee disqualification list under subdivisions (1) to (7) of subsection 11 of this section shall knowingly employ any person who is on the employee disqualification list. Any person, corporation, organization, or association who received the employee disqualification list under subdivisions (1) to (7) of subsection 11 of this section, or any person responsible for providing health care service, who declines to employ or terminates a person whose name is listed in this section shall be immune from suit by that person or anyone else acting for or in behalf of that person for the failure to employ or for the termination of the person whose name is listed on the employee disqualification list.

13. Any employer or vendor as defined in sections 197.250, 197.400, 198.006, 208.900, or **[**660.250**]** **197.1000** required to deny employment to an applicant or to discharge an employee, provisional or otherwise, as a result of information obtained through any portion of the background screening and employment eligibility determination process under section 210.903, or subsequent, periodic screenings, shall not be liable in any action brought by the applicant or employee relating to discharge where the employer is required by law to terminate the employee, provisional or otherwise, and shall not be charged for unemployment insurance benefits based on wages paid to the employee for work prior to the date of discharge, pursuant to section 288.100, if the employer terminated the employee because the employee:

(1) Has been found guilty, pled guilty or nolo contendere in this state or any other state of a crime as listed in subsection 6 of section **[**660.317**]** **197.1038**;

(2) Was placed on the employee disqualification list under this section after the date of hire;

(3) Was placed on the employee disqualification registry maintained by the department of mental health after the date of hire;

(4) Has a disqualifying finding under this section, section **[**660.317**]** **197.1038**, or is on any of the background check lists in the family care safety registry under sections 210.900 to 210.936; or

(5) Was denied a good cause waiver as provided for in subsection 10 of section **[**660.317**]** **197.1038**.

14. Any person who has been listed on the employee disqualification list may request that the director remove his or her name from the employee disqualification list. The request shall be written and may not be made more than once every twelve months. The request will be granted by the director upon a clear showing, by written submission only, that the person will not commit additional acts of abuse, neglect, misappropriation of the property or funds, or the falsification of any documents of service delivery to an in-home services client. The director may make conditional the removal of a person's name from the list on any terms that the director deems appropriate, and failure to comply with such terms may result in the person's name being relisted. The director's determination of whether to remove the person's name from the list is not subject to appeal.

210.117. CHILD NOT REUNITED WITH PARENTS OR PLACED IN A HOME, WHEN. — 1. A child taken into the custody of the state shall not be reunited with a parent or placed in a home in which the parent or any person residing in the home has been found guilty of**[**, or pled guilty to,**]** any of the following offenses when a child was the victim:

(1) A felony violation of section 566.030, **566.031,** 566.032, **[**566.040,**]** 566.060, **566.061,** 566.062, 566.064, 566.067, 566.068, **[**566.070,**]** **566.069, 566.071,** 566.083, **[**566.090,**]** 566.100, **566.101,** 566.111, 566.151, 566.203, 566.206, 566.209, **[**566.212**]** **566.211**, or 566.215;

(2) A violation of section 568.020;

(3) **[**A violation of subdivision (2) of subsection 1 of section 568.060**]** **Abuse of a child under section 568.060 when such abuse is sexual in nature**;

(4) A violation of section 568.065;

(5) A violation of section **[**568.080**]** **573.200**;

(6) A violation of section **[**568.090**]** **573.205**; or

(7) A violation of section 568.175**;**

(8) A violation of section 566.040, 566.070, or 566.090 as such sections existed prior to August 28, 2013; or

(9) A violation of section 566.212, 568.080, or 568.090 as such sections existed prior to January 1, 2017.

2. For all other violations of offenses in chapters 566 and 568 not specifically listed in subsection 1 of this section or for a violation of an offense committed in another state when a child is the victim that would be a violation of chapter 566 or 568, if committed in Missouri, the division may exercise its discretion regarding the placement of a child taken into the custody of the state in which a parent or any person residing in the home has been found guilty of**[**, or pled guilty to,**]** any such offense.

3. In any case where the children's division determines based on a substantiated report of child abuse that a child has abused another child, the abusing child shall be prohibited from returning to or residing in any residence, facility, or school within one thousand feet of the residence of the abused child or any child care facility or school that the abused child attends, unless and until a court of competent jurisdiction determines that the alleged abuse did not occur or the abused child reaches the age of eighteen, whichever earlier occurs. The provisions of this subsection shall not apply when the abusing child and the abused child are siblings or children living in the same home.

211.038. CHILDREN NOT TO BE REUNITED WITH PARENTS OR PLACED IN A HOME, WHEN — DISCRETION TO RETURN, WHEN. — 1. A child under the jurisdiction of the juvenile court shall not be reunited with a parent or placed in a home in which the parent or any person residing in the home has been found guilty of**[**, or pled guilty to,**]** any of the following offenses when a child was the victim:

(1) A felony violation of section 566.030, **566.031,** 566.032, **[**566.040,**]** 566.060, **566.061,** 566.062, 566.064, 566.067, 566.068, **[**566.070,**]** **566.069, 566.071,** 566.083, **[**566.090,**]** 566.100, **566.101,** 566.111, 566.151, 566.203, 566.206, 566.209, **[**566.212**]** **566.211**, or 566.215;

(2) A violation of section 568.020;

(3) **[**A violation of subdivision (2) of subsection 1 of section 568.060**]** **Abuse of a child under section 568.060 when such abuse is sexual in nature**;

(4) A violation of section 568.065;

(5) A violation of section **[**568.080**]** **573.200**;

(6) A violation of section **[**568.090**]** **573.205**; or

(7) A violation of section 568.175**;**

(8) A violation of section 566.040, 566.070, or 566.090 as such sections existed prior to August 28, 2013; or

(9) A violation of section 566.212, 568.080, or 568.090 as such sections existed prior to January 1, 2017.

2. For all other violations of offenses in chapters 566 and 568 not specifically listed in subsection 1 of this section or for a violation of an offense committed in another state when a child is the victim that would be a violation of chapter 566 or 568 if committed in Missouri, the juvenile court may exercise its discretion regarding the placement of a child under the jurisdiction of the juvenile court in a home in which a parent or any person residing in the home has been found guilty of, or pled guilty to, any such offense.

3. If the juvenile court determines that a child has abused another child, such abusing child shall be prohibited from returning to or residing in any residence located within one thousand feet of the residence of the abused child, or any child care facility or school that the abused child attends, until the abused child reaches eighteen years of age. The prohibitions of this subsection shall not apply where the alleged abuse occurred between siblings or children living in the same home.

217.010. DEFINITIONS. — As used in this chapter and chapter 558, unless the context clearly indicates otherwise, the following terms shall mean:

(1) "Administrative segregation unit", a cell for the segregation of offenders from the general population of a facility for relatively extensive periods of time;

(2) "Board", the board of probation and parole;

(3) "Chief administrative officer", the institutional head of any correctional facility or his designee;

(4) "Correctional center", any premises or institution where incarceration, evaluation, care, treatment, or rehabilitation is provided to persons who are under the department's authority;

(5) "Department", the department of corrections of the state of Missouri;

(6) "Director", the director of the department of corrections or his designee;

(7) "Disciplinary segregation", a cell for the segregation of offenders from the general population of a correctional center because the offender has been found to have committed a violation of a division or facility rule and other available means are inadequate to regulate the offender's behavior;

(8) "Division", a statutorily created agency within the department or an agency created by the departmental organizational plan;

(9) "Division director", the director of a division of the department or his designee;

(10) "Local volunteer community board", a board of qualified local community volunteers selected by the court for the purpose of working in partnership with the court and the department of corrections in a reparative probation program;

(11) "Nonviolent offender", any offender who is convicted of a crime other than murder in the first or second degree, involuntary manslaughter, **involuntary manslaughter in the first or second degree,** kidnapping, **kidnapping in the first degree,** rape in the first degree, forcible rape, sodomy in the first degree, forcible sodomy, robbery in the first degree or assault in the first degree;

(12) "Offender", a person under supervision or an inmate in the custody of the department;

(13) "Probation", a procedure under which a defendant found guilty of a crime upon verdict or plea is released by the court without imprisonment, subject to conditions imposed by the court and subject to the supervision of the board;

(14) "Volunteer", any person who, of his own free will, performs any assigned duties for the department or its divisions with no monetary or material compensation.

217.703. EARNED COMPLIANCE CREDITS AWARDED, WHEN. — 1. The division of probation and parole shall award earned compliance credits to any offender who is:

(1) Not subject to lifetime supervision under sections 217.735 and 559.106 or otherwise found to be ineligible to earn credits by a court pursuant to subsection 2 of this section;

(2) On probation, parole, or conditional release for an offense listed in chapter **[**195**] 579, or an offense previously listed in chapter 195,** or for a class **[**C or**]** D **or E** felony, excluding the offenses of **[**aggravated**]** stalking **in the first degree**, rape in the second degree, sexual assault, sodomy in the second degree, deviate sexual assault, assault in the second degree under subdivision (2) of subsection 1 of section **[**565.060**] 565.052**, sexual misconduct involving a child, endangering the welfare of a child in the first degree under subdivision (2) of subsection 1 of section 568.045, incest, invasion of privacy, **[**and**]** abuse of a child, **and any offense of aggravated stalking or assault in the second degree under subdivision (2) of subsection 1 of section 565.060 as such offenses existed prior to January 1, 2017**;

(3) Supervised by the board; and

(4) In compliance with the conditions of supervision imposed by the sentencing court or board.

2. If an offender was placed on probation, parole, or conditional release for an offense of:

(1) **[**Involuntary manslaughter in the first degree;

(2)**]** Involuntary manslaughter in the second degree;

[(3)**] (2)** Assault in the second degree except under subdivision (2) of subsection 1 of section **[**565.060**] 565.052 or section 565.060 as it existed prior to January 1, 2017**;

[(4)**] (3)** Domestic assault in the second degree;

[(5)**] (4)** Assault **[**of a law enforcement officer in the second**] in the third** degree **when the victim is a special victim or assault of a law enforcement officer in the second degree as it existed prior to January 1, 2017**;

[(6)**] (5)** Statutory rape in the second degree;

[(7)**] (6)** Statutory sodomy in the second degree;

[(8)**] (7)** Endangering the welfare of a child in the first degree under subdivision (1) of subsection 1 of section 568.045; or

[(9)**] (8)** Any case in which the defendant is found guilty of a felony offense under chapter 571**[**,**] ;**

the sentencing court may, upon its own motion or a motion of the prosecuting or circuit attorney, make a finding that the offender is ineligible to earn compliance credits because the nature and circumstances of the offense or the history and character of the offender indicate that a longer term of probation, parole, or conditional release is necessary for the protection of the public or the guidance of the offender. The motion may be made any time prior to the first month in which the person may earn compliance credits under this section. The offender's ability to earn credits shall be suspended until the court or board makes its finding. If the court or board finds that the offender is eligible for earned compliance credits, the credits shall begin to accrue on the first day of the next calendar month following the issuance of the decision.

3. Earned compliance credits shall reduce the term of probation, parole, or conditional release by thirty days for each full calendar month of compliance with the terms of supervision. Credits shall begin to accrue for eligible offenders after the first full calendar month of supervision or on October 1, 2012, if the offender began a term of probation, parole, or conditional release before September 1, 2012.

4. For the purposes of this section, the term "compliance" shall mean the absence of an initial violation report submitted by a probation or parole officer during a calendar month, or a motion to revoke or motion to suspend filed by a prosecuting or circuit attorney, against the offender.

5. Credits shall not accrue during any calendar month in which a violation report has been submitted or a motion to revoke or motion to suspend has been filed, and shall be suspended pending the outcome of a hearing, if a hearing is held. If no hearing is held or the court or board finds that the violation did not occur, then the offender shall be deemed to be in compliance and shall begin earning credits on the first day of the next calendar month following the month in which the report was submitted or the motion was filed. All earned credits shall be rescinded if the court or board revokes the probation or parole or the court places the offender in a department program under subsection 4 of section 559.036. Earned credits shall continue to be suspended for a period of time during which the court or board has suspended the term of probation, parole, or release, and shall begin to accrue on the first day of the next calendar month following the lifting of the suspension.

6. Offenders who are deemed by the division to be absconders shall not earn credits. For purposes of this subsection, "absconder" shall mean an offender under supervision who has left such offender's place of residency without the permission of the offender's supervising officer for the purpose of avoiding supervision. An offender shall no longer be deemed an absconder when such offender is available for active supervision.

7. Notwithstanding subsection 2 of section 217.730 to the contrary, once the combination of time served in custody, if applicable, time served on probation, parole, or conditional release, and earned compliance credits satisfy the total term of probation, parole, or conditional release, the board or sentencing court shall order final discharge of the offender, so long as the offender has completed at least two years of his or her probation or parole, which shall include any time served in custody under section 217.718 and sections 559.036 and 559.115.

8. The award or rescission of any credits earned under this section shall not be subject to appeal or any motion for postconviction relief.

9. At least twice a year, the division shall calculate the number of months the offender has remaining on his or her term of probation, parole, or conditional release, taking into consideration any earned compliance credits, and notify the offender of the length of the remaining term.

10. No less than sixty days before the date of final discharge, the division shall notify the sentencing court, the board, and, for probation cases, the circuit or prosecuting attorney of the impending discharge. If the sentencing court, the board, or the circuit or prosecuting attorney upon receiving such notice does not take any action under subsection 5 of this section, the offender shall be discharged under subsection 7 of this section.

11. Any offender who was sentenced prior to January 1, 2017, to an offense that was eligible for earned compliance credits under subsection 1 or 2 of this section at the time of sentencing shall continue to remain eligible for earned compliance credits so long as the offender meets all the other requirements provided under this section.

260.211. DEMOLITION WASTE, CRIMINAL DISPOSITION OF — PENALTIES — CONSPIRACY. — 1. A person commits the offense of criminal disposition of demolition waste if he purposely or knowingly disposes of or causes the disposal of more than two thousand pounds or four hundred cubic feet of such waste on property in this state other than in a solid waste processing facility or solid waste disposal area having a permit as required by section 260.205; provided that, this subsection shall not prohibit the use or require a solid waste permit for the use of solid wastes in normal farming operations or in the processing or manufacturing of other products in a manner that will not create a public nuisance or adversely affect public health and shall not prohibit the disposal of or require a solid waste permit for the disposal by an individual of solid wastes resulting from his or her own residential activities on property owned or lawfully occupied by him or her when such wastes do not thereby create a public nuisance

or adversely affect the public health. Demolition waste shall not include clean fill or vegetation. Criminal disposition of demolition waste is a class **[**D**]** **E** felony. In addition to other penalties prescribed by law, a person convicted of criminal disposition of demolition waste is subject to a fine not to exceed twenty thousand dollars, except as provided below. The magnitude of the fine shall reflect the seriousness or potential seriousness of the threat to human health and the environment posed by the violation, but shall not exceed twenty thousand dollars, except that if a court of competent jurisdiction determines that the person responsible for illegal disposal of demolition waste under this subsection did so for remuneration as a part of an ongoing commercial activity, the court shall set a fine which reflects the seriousness or potential threat to human health and the environment which at least equals the economic gain obtained by the person, and such fine may exceed the maximum established herein.

2. Any person who purposely or knowingly disposes of or causes the disposal of more than two thousand pounds or four hundred cubic feet of his or her personal construction or demolition waste on his or her own property shall be guilty of a class **[**C**]** **D** misdemeanor. If such person receives any amount of money, goods, or services in connection with permitting any other person to dispose of construction or demolition waste on his or her property, such person shall be guilty of a class **[**D**]** **E** felony.

3. The court shall order any person convicted of illegally disposing of demolition waste upon his **or her** own property for remuneration to clean up such waste and, if he **or she** fails to clean up the waste or if he **or she** is unable to clean up the waste, the court may notify the county recorder of the county containing the illegal disposal site. The notice shall be designed to be recorded on the record.

4. The court may order restitution by requiring any person convicted under this section to clean up any demolition waste he illegally dumped and the court may require any such person to perform additional community service by cleaning up and properly disposing of demolition waste illegally dumped by other persons.

5. The prosecutor of any county or circuit attorney of any city not within a county may, by information or indictment, institute a prosecution for any violation of the provisions of this section.

6. Any person shall be guilty of conspiracy as defined in section **[**564.016**]** **562.014** if he or she knows or should have known that his or her agent or employee has committed the acts described in sections 260.210 to 260.212 while engaged in the course of employment.

260.212. SOLID WASTE, CRIMINAL DISPOSITION OF — PENALTIES — CONSPIRACY. — 1. A person commits the offense of criminal disposition of solid waste if he purposely or knowingly disposes of or causes the disposal of more than five hundred pounds or one hundred cubic feet of commercial or residential solid waste on property in this state other than a solid waste processing facility or solid waste disposal area having a permit as required by section 260.205; provided that, this subsection shall not prohibit the use or require a solid waste permit for the use of solid wastes in normal farming operations or in the processing or manufacturing of other products in a manner that will not create a public nuisance or adversely affect public health and shall not prohibit the disposal of or require a solid waste permit for the disposal by an individual of solid wastes resulting from his or her own residential activities on property owned or lawfully occupied by him or her when such wastes do not thereby create a public nuisance or adversely affect the public health. Criminal disposition of solid waste is a class **[**D**]** **E** felony. In addition to other penalties prescribed by law, a person convicted of criminal disposition of solid waste is subject to a fine, and the magnitude of the fine shall reflect the seriousness or potential seriousness of the threat to human health and the environment posed by the violation, but shall not exceed twenty thousand dollars, except that if a court of competent jurisdiction determines that the person responsible for illegal disposal of solid waste under this subsection did so for remuneration as a part of an ongoing commercial activity, the court shall set a fine which reflects the seriousness or potential threat to human health and the environment which at

least equals the economic gain obtained by the person, and such fine may exceed the maximum established herein.

2. The court shall order any person convicted of illegally disposing of solid waste upon his **or her** own property for remuneration to clean up such waste and, if he **or she** fails to clean up the waste or if he **or she** is unable to clean up the waste, the court may notify the county recorder of the county containing the illegal disposal site. The notice shall be designed to be recorded on the record.

3. The court may order restitution by requiring any person convicted under this section to clean up any commercial or residential solid waste he illegally dumped and the court may require any such person to perform additional community service by cleaning up commercial or residential solid waste illegally dumped by other persons.

4. The prosecutor of any county or circuit attorney of any city not within a county may, by information or indictment, institute a prosecution for any violation of the provisions of this section.

5. Any person shall be guilty of conspiracy as defined in section **[**564.016**]** **562.014** if he knows or should have known that his **or her** agent or employee has committed the acts described in sections 260.210 to 260.212 while engaged in the course of employment.

476.055. STATEWIDE COURT AUTOMATION FUND CREATED, ADMINISTRATION, COMMITTEE, MEMBERS — POWERS, DUTIES, LIMITATION — UNAUTHORIZED RELEASE OF INFORMATION, PENALTY — REPORT — EXPIRATION DATE. — 1. There is hereby established in the state treasury the "Statewide Court Automation Fund". All moneys collected pursuant to section 488.027, as well as gifts, contributions, devises, bequests, and grants received relating to automation of judicial record keeping, and moneys received by the judicial system for the dissemination of information and sales of publications developed relating to automation of judicial record keeping, shall be credited to the fund. Moneys credited to this fund may only be used for the purposes set forth in this section and as appropriated by the general assembly. Any unexpended balance remaining in the statewide court automation fund at the end of each biennium shall not be subject to the provisions of section 33.080 requiring the transfer of such unexpended balance to general revenue; except that, any unexpended balance remaining in the fund on September 1, 2018, shall be transferred to general revenue.

2. The statewide court automation fund shall be administered by a court automation committee consisting of the following: the chief justice of the supreme court, a judge from the court of appeals, four circuit judges, four associate circuit judges, four employees of the circuit court, the commissioner of administration, two members of the house of representatives appointed by the speaker of the house, two members of the senate appointed by the president pro tem of the senate and two members of the Missouri Bar. The judge members and employee members shall be appointed by the chief justice. The commissioner of administration shall serve ex officio. The members of the Missouri Bar shall be appointed by the board of governors of the Missouri Bar. Any member of the committee may designate another person to serve on the committee in place of the committee member.

3. The committee shall develop and implement a plan for a statewide court automation system. The committee shall have the authority to hire consultants, review systems in other jurisdictions and purchase goods and services to administer the provisions of this section. The committee may implement one or more pilot projects in the state for the purposes of determining the feasibility of developing and implementing such plan. The members of the committee shall be reimbursed from the court automation fund for their actual expenses in performing their official duties on the committee.

4. Any purchase of computer software or computer hardware that exceeds five thousand dollars shall be made pursuant to the requirements of the office of administration for lowest and best bid. Such bids shall be subject to acceptance by the office of administration. The court automation committee shall determine the specifications for such bids.

5. The court automation committee shall not require any circuit court to change any operating system in such court, unless the committee provides all necessary personnel, funds and equipment necessary to effectuate the required changes. No judicial circuit or county may be reimbursed for any costs incurred pursuant to this subsection unless such judicial circuit or county has the approval of the court automation committee prior to incurring the specific cost.

6. Any court automation system, including any pilot project, shall be implemented, operated and maintained in accordance with strict standards for the security and privacy of confidential judicial records. Any person who knowingly releases information from a confidential judicial record is guilty of a class B misdemeanor. Any person who, knowing that a judicial record is confidential, uses information from such confidential record for financial gain is guilty of a class **[**D**]** **E** felony.

7. On the first day of February, May, August and November of each year, the court automation committee shall file a report on the progress of the statewide automation system with **[**the joint legislative committee on court automation. Such committee shall consist of the following**]**:

(1) The chair of the house budget committee;

(2) The chair of the senate appropriations committee;

(3) The chair of the house judiciary committee; **and**

(4) The chair of the senate judiciary committee**[**;

(5) One member of the minority party of the house appointed by the speaker of the house of representatives; and

(6) One member of the minority party of the senate appointed by the president pro tempore of the senate.

8. The members of the joint legislative committee shall be reimbursed from the court automation fund for their actual expenses incurred in the performance of their official duties as members of the joint legislative committee on court automation**]**.

[9.**]** **8.** Section 488.027 shall expire on September 1, 2018. The court automation committee established pursuant to this section may continue to function until completion of its duties prescribed by this section, but shall complete its duties prior to September 1, 2020.

[10.**]** **9.** This section shall expire on September 1, 2020.

[476.055. STATEWIDE COURT AUTOMATION FUND CREATED, ADMINISTRATION, COMMITTEE, MEMBERS — POWERS, DUTIES, LIMITATION — UNAUTHORIZED RELEASE OF INFORMATION, PENALTY — REPORT — EXPIRATION DATE. — 1. There is hereby established in the state treasury the "Statewide Court Automation Fund". All moneys collected pursuant to section 488.027, as well as gifts, contributions, devises, bequests, and grants received relating to automation of judicial record keeping, and moneys received by the judicial system for the dissemination of information and sales of publications developed relating to automation of judicial record keeping, shall be credited to the fund. Moneys credited to this fund may only be used for the purposes set forth in this section and as appropriated by the general assembly. Any unexpended balance remaining in the statewide court automation fund at the end of each biennium shall not be subject to the provisions of section 33.080 requiring the transfer of such unexpended balance to general revenue; except that, any unexpended balance remaining in the fund on September 1, 2015, shall be transferred to general revenue.

2. The statewide court automation fund shall be administered by a court automation committee consisting of the following: the chief justice of the supreme court, a judge from the court of appeals, four circuit judges, four associate circuit judges, four employees of the circuit court, the commissioner of administration, two members of the house of representatives appointed by the speaker of the house, two members of the senate appointed by the president pro tem of the senate and two

members of the Missouri Bar. The judge members and employee members shall be appointed by the chief justice. The commissioner of administration shall serve ex officio. The members of the Missouri Bar shall be appointed by the board of governors of the Missouri Bar. Any member of the committee may designate another person to serve on the committee in place of the committee member.

3. The committee shall develop and implement a plan for a statewide court automation system. The committee shall have the authority to hire consultants, review systems in other jurisdictions and purchase goods and services to administer the provisions of this section. The committee may implement one or more pilot projects in the state for the purposes of determining the feasibility of developing and implementing such plan. The members of the committee shall be reimbursed from the court automation fund for their actual expenses in performing their official duties on the committee.

4. Any purchase of computer software or computer hardware that exceeds five thousand dollars shall be made pursuant to the requirements of the office of administration for lowest and best bid. Such bids shall be subject to acceptance by the office of administration. The court automation committee shall determine the specifications for such bids.

5. The court automation committee shall not require any circuit court to change any operating system in such court, unless the committee provides all necessary personnel, funds and equipment necessary to effectuate the required changes. No judicial circuit or county may be reimbursed for any costs incurred pursuant to this subsection unless such judicial circuit or county has the approval of the court automation committee prior to incurring the specific cost.

6. Any court automation system, including any pilot project, shall be implemented, operated and maintained in accordance with strict standards for the security and privacy of confidential judicial records. Any person who knowingly releases information from a confidential judicial record is guilty of a class B misdemeanor. Any person who, knowing that a judicial record is confidential, uses information from such confidential record for financial gain is guilty of a class D felony.

7. On the first day of February, May, August and November of each year, the court automation committee shall file a report on the progress of the statewide automation system with the joint legislative committee on court automation. Such committee shall consist of the following:

(1) The chair of the house budget committee;

(2) The chair of the senate appropriations committee;

(3) The chair of the house judiciary committee;

(4) The chair of the senate judiciary committee;

(5) One member of the minority party of the house appointed by the speaker of the house of representatives; and

(6) One member of the minority party of the senate appointed by the president pro tempore of the senate.

8. The members of the joint legislative committee shall be reimbursed from the court automation fund for their actual expenses incurred in the performance of their official duties as members of the joint legislative committee on court automation.

9. Section 488.027 shall expire on September 1, 2015. The court automation committee established pursuant to this section may continue to function until completion of its duties prescribed by this section, but shall complete its duties prior to September 1, 2017.

10. This section shall expire on September 1, 2017.**]**

[566.135.] 545.940. DEFENDANT MAY BE TESTED FOR VARIOUS SEXUALLY TRANSMITTED DISEASES, WHEN. — 1. Pursuant to a motion filed by the prosecuting attorney or circuit attorney with notice given to the defense attorney and for good cause shown, in any criminal case in which a defendant has been charged by the prosecuting attorney's office or circuit attorney's office with any offense under **[**this chapter or pursuant to section 575.150, 567.020, 565.050, 565.060, 565.070,**]** **chapter 566 or section 565.050, assault in the first degree; section 565.052 or 565.060, assault in the second degree; section 565.054 or 565.070, assault in the third degree; section 565.056, assault in the fourth degree; section** 565.072, **domestic assault in the first degree; section** 565.073, **domestic assault in the second degree; section** 565.074, **[**565.075, 565.081, 565.082, 565.083,**]** **domestic assault in the third degree; section 565.075, assault while on school property; section 565.076, domestic assault in the fourth degree; section 565.081, 565.082, or 565.083, assault of a law enforcement officer, corrections officer, emergency personnel, highway worker in a construction zone or work zone, utility worker, cable worker, or probation and parole officer in the first, second, or third degree; section 567.020, prostitution; section** 568.045, **endangering the welfare of a child in the first degree; section** 568.050, **[**or**]** **endangering the welfare of a child in the second degree; section** 568.060, **abuse of a child; section 575.150, resisting or interfering with an arrest;** or paragraph (a), (b), or (c), of subdivision (2) of subsection 1 of section 191.677, **recklessly exposing a person to HIV,** the court may order that the defendant be conveyed to a state-, city-, or county-operated HIV clinic for testing for HIV, hepatitis B, hepatitis C, syphilis, gonorrhea, and chlamydia. The results of **[**the defendant's HIV, hepatitis B, hepatitis C, syphilis, gonorrhea, and chlamydia**]** **such** tests shall be released to the victim and his or her parent or legal guardian if the victim is a minor. The results of **[**the defendant's HIV, hepatitis B, hepatitis C, syphilis, gonorrhea, and chlamydia**]** **such** tests shall also be released to the prosecuting attorney or circuit attorney and the defendant's attorney. The state's motion to obtain said testing, the court's order of the same, and the test results shall be sealed in the court file.

2. As used in this section, "HIV" means the human immunodeficiency virus that causes acquired immunodeficiency syndrome.

556.061. CODE DEFINITIONS. — In this code, unless the context requires a different definition, the following **[**shall apply**]** **terms shall mean**:

(1) **"Access", to instruct, communicate with, store data in, retrieve or extract data from, or otherwise make any use of any resources of, a computer, computer system, or computer network;**

(2) "Affirmative defense" **[**has the meaning specified in section 556.056**]** **:**

(a) The defense referred to is not submitted to the trier of fact unless supported by evidence; and

(b) If the defense is submitted to the trier of fact the defendant has the burden of persuasion that the defense is more probably true than not;

[(2)**]** **(3)** "Burden of injecting the issue" **[**has the meaning specified in section 556.051**]** **:**

(a) The issue referred to is not submitted to the trier of fact unless supported by evidence; and

(b) If the issue is submitted to the trier of fact any reasonable doubt on the issue requires a finding for the defendant on that issue;

[(3)**]** **(4)** "Commercial film and photographic print processor", any person who develops exposed photographic film into negatives, slides or prints, or who makes prints from negatives or slides, for compensation. The term commercial film and photographic print processor shall include all employees of such persons but shall not include a person who develops film or makes prints for a public agency;

(5) "Computer", the box that houses the central processing unit (cpu), along with any internal storage devices, such as internal hard drives, and internal communication devices,

such as internal modems capable of sending or receiving electronic mail or fax cards, along with any other hardware stored or housed internally. Thus, computer refers to hardware, software and data contained in the main unit. Printers, external modems attached by cable to the main unit, monitors, and other external attachments will be referred to collectively as peripherals and discussed individually when appropriate. When the computer and all peripherals are referred to as a package, the term "computer system" is used. Information refers to all the information on a computer system including both software applications and data;

(6) "Computer equipment", computers, terminals, data storage devices, and all other computer hardware associated with a computer system or network;

(7) "Computer hardware", all equipment which can collect, analyze, create, display, convert, store, conceal or transmit electronic, magnetic, optical or similar computer impulses or data. Hardware includes, but is not limited to, any data processing devices, such as central processing units, memory typewriters and self-contained laptop or notebook computers; internal and peripheral storage devices, transistor-like binary devices and other memory storage devices, such as floppy disks, removable disks, compact disks, digital video disks, magnetic tape, hard drive, optical disks and digital memory; local area networks, such as two or more computers connected together to a central computer server via cable or modem; peripheral input or output devices, such as keyboards, printers, scanners, plotters, video display monitors and optical readers; and related communication devices, such as modems, cables and connections, recording equipment, RAM or ROM units, acoustic couplers, automatic dialers, speed dialers, programmable telephone dialing or signaling devices and electronic tone-generating devices; as well as any devices, mechanisms or parts that can be used to restrict access to computer hardware, such as physical keys and locks;

(8) "Computer network", two or more interconnected computers or computer systems;

(9) "Computer program", a set of instructions, statements, or related data that directs or is intended to direct a computer to perform certain functions;

(10) "Computer software", digital information which can be interpreted by a computer and any of its related components to direct the way they work. Software is stored in electronic, magnetic, optical or other digital form. The term commonly includes programs to run operating systems and applications, such as word processing, graphic, or spreadsheet programs, utilities, compilers, interpreters and communications programs;

(11) "Computer-related documentation", written, recorded, printed or electronically stored material which explains or illustrates how to configure or use computer hardware, software or other related items;

(12) "Computer system", a set of related, connected or unconnected, computer equipment, data, or software;

[(4)**] (13)** "Confinement":

(a) A person is in confinement when such person is held in a place of confinement pursuant to arrest or order of a court, and remains in confinement until:

a. A court orders the person's release; or

b. The person is released on bail, bond, or recognizance, personal or otherwise; or

c. A public servant having the legal power and duty to confine the person authorizes his release without guard and without condition that he return to confinement;

(b) A person is not in confinement if:

a. The person is on probation or parole, temporary or otherwise; or

b. The person is under sentence to serve a term of confinement which is not continuous, or is serving a sentence under a work-release program, and in either such case is not being held in a place of confinement or is not being held under guard by a person having the legal power and duty to transport the person to or from a place of confinement;

[(5)**] (14)** "Consent": consent or lack of consent may be expressed or implied. Assent does not constitute consent if:

(a) It is given by a person who lacks the mental capacity to authorize the conduct charged to constitute the offense and such mental incapacity is manifest or known to the actor; or

(b) It is given by a person who by reason of youth, mental disease or defect, intoxication, a drug-induced state, or any other reason is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense; or

(c) It is induced by force, duress or deception;

(15) "Controlled substance", a drug, substance, or immediate precursor in schedules I through V as defined in chapter 195;

[(6)**] (16)** "Criminal negligence" **[**has the meaning specified in section 562.016**] , failure to be aware of a substantial and unjustifiable risk that circumstances exist or a result will follow, and such failure constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation**;

[(7)**] (17)** "Custody", a person is in custody when **[**the person**] he or she** has been arrested but has not been delivered to a place of confinement;

(18) "Damage", when used in relation to a computer system or network, means any alteration, deletion, or destruction of any part of the computer system or network;

[(8)**] (19)** "Dangerous felony" **[**means**] ,** the felonies of arson in the first degree, assault in the first degree, attempted rape in the first degree if physical injury results, attempted forcible rape if physical injury results, attempted sodomy in the first degree if physical injury results, attempted forcible sodomy if physical injury results, rape in the first degree, forcible rape, sodomy in the first degree, forcible sodomy, **assault in the second degree if the victim of such assault is a special victim as defined in subdivision (14) of section 565.002, kidnapping in the first degree,** kidnapping, murder in the second degree, assault of a law enforcement officer in the first degree, domestic assault in the first degree, elder abuse in the first degree, robbery in the first degree, statutory rape in the first degree when the victim is a child less than twelve years of age at the time of the commission of the act giving rise to the offense, statutory sodomy in the first degree when the victim is a child less than twelve years of age at the time of the commission of the act giving rise to the offense, **[**and,**] child molestation in the first or second degree,** abuse of a child if the child dies as a result of injuries sustained from conduct chargeable under section 568.060, child kidnapping, **[**and**]** parental kidnapping committed by detaining or concealing the whereabouts of the child for not less than one hundred twenty days under section 565.153**, and an "intoxication-related traffic offense" or "intoxication-related boating offense" if the person is found to be a "habitual offender" or "habitual boating offender" as such terms are defined in section 577.001**;

[(9)**] (20)** "Dangerous instrument" **[**means**] ,** any instrument, article or substance, which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury;

(21) "Data", a representation of information, facts, knowledge, concepts, or instructions prepared in a formalized or other manner and intended for use in a computer or computer network. Data may be in any form including, but not limited to, printouts, microfiche, magnetic storage media, punched cards and as may be stored in the memory of a computer;

[(10)**] (22)** "Deadly weapon" **[**means**] ,** any firearm, loaded or unloaded, or any weapon from which a shot, readily capable of producing death or serious physical injury, may be discharged, or a switchblade knife, dagger, billy **club**, blackjack or metal knuckles;

(23) "Digital camera", a camera that records images in a format which enables the images to be downloaded into a computer;

(24) "Disability", a mental, physical, or developmental impairment that substantially limits one or more major life activities or the ability to provide adequately for one's care

or protection, whether the impairment is congenital or acquired by accident, injury or disease, where such impairment is verified by medical findings;

(25) "Elderly person", a person sixty years of age or older;

[(11)**] (26)** "Felony" **[**has the meaning specified in section 556.016**] , an offense so designated or an offense for which persons found guilty thereof may be sentenced to death or imprisonment for a term of more than one year**;

[(12)**] (27)** "Forcible compulsion" **[**means**]** either:

(a) Physical force that overcomes reasonable resistance; or

(b) A threat, express or implied, that places a person in reasonable fear of death, serious physical injury or kidnapping of such person or another person;

[(13)**] (28)** "Incapacitated" **[**means that**] , a temporary or permanent** physical or mental condition**[**, temporary or permanent,**]** in which a person is unconscious, unable to appraise the nature of **[**such person's**] his or her** conduct, or unable to communicate unwillingness to an act;

[(14)**] (29)** "Infraction" **[**has the meaning specified in section 556.021**] , a violation defined by this code or by any other statute of this state if it is so designated or if no sentence other than a fine, or fine and forfeiture or other civil penalty, is authorized upon conviction**;

[(15)**] (30)** "Inhabitable structure" **[**has the meaning specified in section 569.010**] , a vehicle, vessel or structure:**

(a) Where any person lives or carries on business or other calling; or

(b) Where people assemble for purposes of business, government, education, religion, entertainment, or public transportation; or

(c) Which is used for overnight accommodation of persons. Any such vehicle, vessel, or structure is "inhabitable" regardless of whether a person is actually present.

If a building or structure is divided into separately occupied units, any unit not occupied by the actor is an "inhabitable structure of another";

[(16)**] (31)** "Knowingly" **[**has the meaning specified in section 562.016**] , when used with respect to:**

(a) Conduct or attendant circumstances, means a person is aware of the nature of his or her conduct or that those circumstances exist; or

(b) A result of conduct, means a person is aware that his or her conduct is practically certain to cause that result;

[(17)**] (32)** "Law enforcement officer" **[**means**] ,** any public servant having both the power and duty to make arrests for violations of the laws of this state, and federal law enforcement officers authorized to carry firearms and to make arrests for violations of the laws of the United States;

[(18)**] (33)** "Misdemeanor" **[**has the meaning specified in section 556.016**] , an offense so designated or an offense for which persons found guilty thereof may be sentenced to imprisonment for a term of which the maximum is one year or less**;

(34) "Of another", property that any entity, including but not limited to any natural person, corporation, limited liability company, partnership, association, governmental subdivision or instrumentality, other than the actor, has a possessory or proprietary interest therein, except that property shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement;

[(19)**] (35)** "Offense" **[**means**] ,** any felony**[**,**] or** misdemeanor **[**or infraction**]**;

[(20)**] (36)** "Physical injury" **[**means physical pain, illness, or any impairment of physical condition**] , slight impairment of any function of the body or temporary loss of use of any part of the body**;

[(21)**] (37)** "Place of confinement" **[**means**] ,** any building or facility and the grounds thereof wherein a court is legally authorized to order that a person charged with or convicted of a crime be held;

[(22)**] (38)** "Possess" or "possessed" **[**means**] ,** having actual or constructive possession of an object with knowledge of its presence. A person has actual possession if such person has the object on his or her person or within easy reach and convenient control. A person has constructive possession if such person has the power and the intention at a given time to exercise dominion or control over the object either directly or through another person or persons. Possession may also be sole or joint. If one person alone has possession of an object, possession is sole. If two or more persons share possession of an object, possession is joint;

(39) "Property", anything of value, whether real or personal, tangible or intangible, in possession or in action;

[(23)**] (40)** "Public servant" **[**means**] ,** any person employed in any way by a government of this state who is compensated by the government by reason of such person's employment, any person appointed to a position with any government of this state, or any person elected to a position with any government of this state. It includes, but is not limited to, legislators, jurors, members of the judiciary and law enforcement officers. It does not include witnesses;

[(24)**] (41)** "Purposely" **[**has the meaning specified in section 562.016**] , when used with respect to a person's conduct or to a result thereof, means when it is his or her conscious object to engage in that conduct or to cause that result**;

[(25)**] (42)** "Recklessly" **[**has the meaning specified in section 562.016**] , consciously disregarding a substantial and unjustifiable risk that circumstances exist or that a result will follow, and such disregard constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation**;

[(26) "Ritual" or "ceremony" means an act or series of acts performed by two or more persons as part of an established or prescribed pattern of activity;

(27)**] (43)** "Serious emotional injury", an injury that creates a substantial risk of temporary or permanent medical or psychological damage, manifested by impairment of a behavioral, cognitive or physical condition. Serious emotional injury shall be established by testimony of qualified experts upon the reasonable expectation of probable harm to a reasonable degree of medical or psychological certainty;

[(28)**] (44)** "Serious physical injury" **[**means**] ,** physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body;

[(29) "Sexual conduct" means acts of human masturbation; deviate sexual intercourse; sexual intercourse; or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female in an act of apparent sexual stimulation or gratification;

(30) "Sexual contact" means any touching of the genitals or anus of any person, or the breast of any female person, or any such touching through the clothing, for the purpose of arousing or gratifying sexual desire of any person;

(31) "Sexual performance", any performance, or part thereof, which includes sexual conduct by a child who is less than seventeen years of age;**]**

(45) "Services", when used in relation to a computer system or network, means use of a computer, computer system, or computer network and includes, but is not limited to, computer time, data processing, and storage or retrieval functions;

(46) "Sexual orientation", male or female heterosexuality, homosexuality or bisexuality by inclination, practice, identity or expression, or having a self-image or identity not traditionally associated with one's gender;

(47) "Vehicle", a self-propelled mechanical device designed to carry a person or persons, excluding vessels or aircraft;

(48) "Vessel", any boat or craft propelled by a motor or by machinery, whether or not such motor or machinery is a principal source of propulsion used or capable of being used as a means of transportation on water, or any boat or craft more than twelve feet in length which is powered by sail alone or by a combination of sail and machinery, and used or capable of being used as a means of transportation on water, but not any boat or craft having, as the only means of propulsion, a paddle or oars;

[(32)**] (49)** "Voluntary act" **[**has the meaning specified in section 562.011**] :**

(a) A bodily movement performed while conscious as a result of effort or determination. Possession is a voluntary act if the possessor knowingly procures or receives the thing possessed, or having acquired control of it was aware of his or her control for a sufficient time to have enabled him or her to dispose of it or terminate his or her control; or

(b) An omission to perform an act of which the actor is physically capable. A person is not guilty of an offense based solely upon an omission to perform an act unless the law defining the offense expressly so provides, or a duty to perform the omitted act is otherwise imposed by law;

(50) "Vulnerable person", any person in the custody, care, or control of the department of mental health who is receiving services from an operated, funded, licensed, or certified program.

558.019. PRIOR FELONY CONVICTIONS, MINIMUM PRISON TERMS — PRISON COMMITMENT DEFINED — DANGEROUS FELONY, MINIMUM TERM PRISON TERM, HOW CALCULATED — SENTENCING COMMISSION CREATED, MEMBERS, DUTIES — EXPENSES — COOPERATION WITH COMMISSION — RESTORATIVE JUSTICE METHODS — RESTITUTION FUND. — 1. This section shall not be construed to affect the powers of the governor under article IV, section 7, of the Missouri Constitution. This statute shall not affect those provisions of section 565.020, section **[**558.018**] 566.125,** or section 571.015, which set minimum terms of sentences, or the provisions of section 559.115, relating to probation.

2. The provisions of subsections 2 to 5 of this section shall be applicable to all classes of felonies except those set forth in chapter **[**195**] 579, or in chapter 195 prior to January 1, 2017**, and those otherwise excluded in subsection 1 of this section. For the purposes of this section, "prison commitment" means and is the receipt by the department of corrections of an offender after sentencing. For purposes of this section, prior prison commitments to the department of corrections shall not include **[**commitment to a regimented discipline program established pursuant to section 217.378**] an offender's first incarceration prior to release on probation under section 217.362 or 559.115**. Other provisions of the law to the contrary notwithstanding, any offender who has **[**pleaded guilty to or has**]** been found guilty of a felony other than a dangerous felony as defined in section 556.061 and is committed to the department of corrections shall be required to serve the following minimum prison terms:

(1) If the offender has one previous prison commitment to the department of corrections for a felony offense, the minimum prison term which the offender must serve shall be forty percent of his or her sentence or until the offender attains seventy years of age, and has served at least thirty percent of the sentence imposed, whichever occurs first;

(2) If the offender has two previous prison commitments to the department of corrections for felonies unrelated to the present offense, the minimum prison term which the offender must serve shall be fifty percent of his or her sentence or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first;

(3) If the offender has three or more previous prison commitments to the department of corrections for felonies unrelated to the present offense, the minimum prison term which the offender must serve shall be eighty percent of his or her sentence or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first.

3. Other provisions of the law to the contrary notwithstanding, any offender who has **[**pleaded guilty to or has**]** been found guilty of a dangerous felony as defined in section 556.061 and is committed to the department of corrections shall be required to serve a minimum prison term of eighty-five percent of the sentence imposed by the court or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first.

4. For the purpose of determining the minimum prison term to be served, the following calculations shall apply:

(1) A sentence of life shall be calculated to be thirty years;

(2) Any sentence either alone or in the aggregate with other consecutive sentences for **[**crimes**]** **offenses** committed at or near the same time which is over seventy-five years shall be calculated to be seventy-five years.

5. For purposes of this section, the term "minimum prison term" shall mean time required to be served by the offender before he or she is eligible for parole, conditional release or other early release by the department of corrections.

6. (1) A sentencing advisory commission is hereby created to consist of eleven members. One member shall be appointed by the speaker of the house. One member shall be appointed by the president pro tem of the senate. One member shall be the director of the department of corrections. Six members shall be appointed by and serve at the pleasure of the governor from among the following: the public defender commission; private citizens; a private member of the Missouri Bar; the board of probation and parole; and a prosecutor. Two members shall be appointed by the supreme court, one from a metropolitan area and one from a rural area. All members shall be appointed to a four-year term. All members of the sentencing commission appointed prior to August 28, 1994, shall continue to serve on the sentencing advisory commission at the pleasure of the governor.

(2) The commission shall study sentencing practices in the circuit courts throughout the state for the purpose of determining whether and to what extent disparities exist among the various circuit courts with respect to the length of sentences imposed and the use of probation for offenders convicted of the same or similar **[**crimes**]** **offenses** and with similar criminal histories. The commission shall also study and examine whether and to what extent sentencing disparity among economic and social classes exists in relation to the sentence of death and if so, the reasons therefor**, if** sentences are comparable to other states, if the length of the sentence is appropriate, and the rate of rehabilitation based on sentence. It shall compile statistics, examine cases, draw conclusions, and perform other duties relevant to the research and investigation of disparities in death penalty sentencing among economic and social classes.

(3) The commission shall study alternative sentences, prison work programs, work release, home-based incarceration, probation and parole options, and any other programs and report the feasibility of these options in Missouri.

(4) The governor shall select a chairperson who shall call meetings of the commission as required or permitted pursuant to the purpose of the sentencing commission.

(5) The members of the commission shall not receive compensation for their duties on the commission, but shall be reimbursed for actual and necessary expenses incurred in the performance of these duties and for which they are not reimbursed by reason of their other paid positions.

(6) The circuit and associate circuit courts of this state, the office of the state courts administrator, the department of public safety, and the department of corrections shall cooperate with the commission by providing information or access to information needed by the commission. The office of the state courts administrator will provide needed staffing resources.

7. Courts shall retain discretion to lower or exceed the sentence recommended by the commission as otherwise allowable by law, and to order restorative justice methods, when applicable.

8. If the imposition or execution of a sentence is suspended, the court may order any or all of the following restorative justice methods, or any other method that the court finds just or appropriate:

(1) Restitution to any victim or a statutorily created fund for costs incurred as a result of the offender's actions;

(2) Offender treatment programs;

(3) Mandatory community service;

(4) Work release programs in local facilities; and

(5) Community-based residential and nonresidential programs.

9. The provisions of this section shall apply only to offenses occurring on or after August 28, 2003.

10. Pursuant to subdivision (1) of subsection 8 of this section, the court may order the assessment and payment of a designated amount of restitution to a county law enforcement restitution fund established by the county commission pursuant to section 50.565. Such contribution shall not exceed three hundred dollars for any charged offense. Any restitution moneys deposited into the county law enforcement restitution fund pursuant to this section shall only be expended pursuant to the provisions of section 50.565.

11. A judge may order payment to a restitution fund only if such fund had been created by ordinance or resolution of a county of the state of Missouri prior to sentencing. A judge shall not have any direct supervisory authority or administrative control over any fund to which the judge is ordering a **[**defendant**]** **person** to make payment.

12. A **[**defendant**]** **person** who fails to make a payment to a county law enforcement restitution fund may not have his or her probation revoked solely for failing to make such payment unless the judge, after evidentiary hearing, makes a finding supported by a preponderance of the evidence that the **[**defendant**]** **person** either willfully refused to make the payment or that the **[**defendant**]** **person** willfully, intentionally, and purposefully failed to make sufficient bona fide efforts to acquire the resources to pay.

13. Nothing in this section shall be construed to allow the sentencing advisory commission to issue recommended sentences in specific cases pending in the courts of this state.

559.036. DURATION OF PROBATION — REVOCATION. — 1. A term of probation commences on the day it is imposed. Multiple terms of Missouri probation, whether imposed at the same time or at different times, shall run concurrently. Terms of probation shall also run concurrently with any federal or other state jail, prison, probation or parole term for another offense to which the defendant is or becomes subject during the period, unless otherwise specified by the Missouri court.

2. The court may terminate a period of probation and discharge the defendant at any time before completion of the specific term fixed under section 559.016 if warranted by the conduct of the defendant and the ends of justice. The court may extend the term of the probation, but no more than one extension of any probation may be ordered except that the court may extend the term of probation by one additional year by order of the court if the defendant admits he or she has violated the conditions of probation or is found by the court to have violated the conditions of his or her probation. Total time on any probation term, including any extension shall not exceed the maximum term established in section 559.016. Procedures for termination, discharge and extension may be established by rule of court.

3. If the defendant violates a condition of probation at any time prior to the expiration or termination of the probation term, the court may continue him **or her** on the existing conditions, with or without modifying or enlarging the conditions or extending the term.

4. (1) Unless the defendant consents to the revocation of probation, if a continuation, modification, enlargement or extension is not appropriate under this section, the court shall order placement of the offender in one of the department of corrections' one hundred twenty-day programs so long as:

(a) The underlying offense for the probation is a class **[**C or**]** D **or E** felony or an offense listed in chapter **[**195**]** **579 or an offense previously listed in chapter 195**; except that, the court may, upon its own motion or a motion of the prosecuting or circuit attorney, make a finding that an offender is not eligible if the underlying offense is **[**involuntary manslaughter in the first degree,**]** involuntary manslaughter in the second degree, **[**aggravated**]** stalking **in the first degree**, assault in the second degree, sexual assault, rape in the second degree, domestic assault in the second degree, assault **[**of a law enforcement officer in the second degree**]** **in the third**

degree when the victim is a special victim, statutory rape in the second degree, statutory sodomy in the second degree, deviate sexual assault, sodomy in the second degree, sexual misconduct involving a child, incest, endangering the welfare of a child in the first degree under subdivision (1) or (2) of subsection 1 of section 568.045, abuse of a child, invasion of privacy **[**or**] ,** any case in which the defendant is found guilty of a felony offense under chapter 571**, or an offense of aggravated stalking or assault of a law enforcement officer in the second degree as such offenses existed prior to January 1, 2017**;

(b) The probation violation is not the result of the defendant being an absconder or being found guilty of, pleading guilty to, or being arrested on suspicion of any felony, misdemeanor, or infraction. For purposes of this subsection, "absconder" shall mean an offender under supervision who has left such offender's place of residency without the permission of the offender's supervising officer for the purpose of avoiding supervision;

(c) The defendant has not violated any conditions of probation involving the possession or use of weapons, or a stay-away condition prohibiting the defendant from contacting a certain individual; and

(d) The defendant has not already been placed in one of the programs by the court for the same underlying offense or during the same probation term.

(2) Upon receiving the order, the department of corrections shall conduct an assessment of the offender and place such offender in the appropriate one hundred twenty-day program under subsection 3 of section 559.115.

(3) Notwithstanding any of the provisions of subsection 3 of section 559.115 to the contrary, once the defendant has successfully completed the program under this subsection, the court shall release the defendant to continue to serve the term of probation, which shall not be modified, enlarged, or extended based on the same incident of violation. Time served in the program shall be credited as time served on any sentence imposed for the underlying offense.

5. If the defendant consents to the revocation of probation or if the defendant is not eligible under subsection 4 of this section for placement in a program and a continuation, modification, enlargement, or extension of the term under this section is not appropriate, the court may revoke probation and order that any sentence previously imposed be executed. If imposition of sentence was suspended, the court may revoke probation and impose any sentence available under section 557.011. The court may mitigate any sentence of imprisonment by reducing the prison or jail term by all or part of the time the defendant was on probation. The court may, upon revocation of probation, place an offender on a second term of probation. Such probation shall be for a term of probation as provided by section 559.016, notwithstanding any amount of time served by the offender on the first term of probation.

6. Probation shall not be revoked without giving the probationer notice and an opportunity to be heard on the issues of whether such probationer violated a condition of probation and, if a condition was violated, whether revocation is warranted under all the circumstances. Not less than five business days prior to the date set for a hearing on the violation, except for a good cause shown, the judge shall inform the probationer that he or she may have the right to request the appointment of counsel if the probationer is unable to retain counsel. If the probationer requests counsel, the judge shall determine whether counsel is necessary to protect the probationer's due process rights. If the judge determines that counsel is not necessary, the judge shall state the grounds for the decision in the record.

7. The prosecuting or circuit attorney may file a motion to revoke probation or at any time during the term of probation, the court may issue a notice to the probationer to appear to answer a charge of a violation, and the court may issue a warrant of arrest for the violation. Such notice shall be personally served upon the probationer. The warrant shall authorize the return of the probationer to the custody of the court or to any suitable detention facility designated by the court. Upon the filing of the prosecutor's or circuit attorney's motion or on the court's own motion, the court may immediately enter an order suspending the period of probation and may order a warrant for the defendant's arrest. The probation shall remain suspended until the court

rules on the prosecutor's or circuit attorney's motion, or until the court otherwise orders the probation reinstated.

8. The power of the court to revoke probation shall extend for the duration of the term of probation designated by the court and for any further period which is reasonably necessary for the adjudication of matters arising before its expiration, provided that some affirmative manifestation of an intent to conduct a revocation hearing occurs prior to the expiration of the period and that every reasonable effort is made to notify the probationer and to conduct the hearing prior to the expiration of the period.

9. A defendant who was sentenced prior to January 1, 2017 to an offense that was eligible at the time of sentencing under paragraph (a) of subdivision (1) of subsection 4 of this section for the court ordered detention sanction shall continue to remain eligible for the sanction so long as the defendant meets all the other requirements provided under subsection 4 of this section.

559.106. LIFETIME SUPERVISION OF CERTAIN SEXUAL OFFENDERS — ELECTRONIC MONITORING — TERMINATION AT AGE SIXTY-FIVE PERMITTED, WHEN. — 1. Notwithstanding any statutory provision to the contrary, when a court grants probation to an offender who has **[**pleaded guilty to or has**]** been found guilty of an offense in**:**

(1) Section 566.030, 566.032, 566.060, **[**or**]** 566.062, **[**based on an act committed on or after August 28, 2006, or the offender has pleaded guilty to or has been found guilty of an offense under section**]** 566.067, 566.083, 566.100, 566.151, 566.212, 566.213, 568.020, 568.080, or 568.090, based on an act committed on or after August 28, 2006**[**,**]** **; or**

(2) Section 566.068, 566.069, 566.210, 566.211, 573.200, or 573.205 based on an act committed on or after January 1, 2017, against a victim who was less than fourteen years **[**old**]** **of age** and the offender is a prior sex offender as defined in subsection 2 of this section**[**,**]** **;**

the court shall order that the offender be supervised by the board of probation and parole for the duration of his or her natural life.

2. For the purpose of this section, a prior sex offender is a person who has previously **[**pleaded guilty to or has**]** been found guilty of an offense contained in chapter 566, or violating section 568.020, when the person had sexual intercourse or deviate sexual intercourse with the victim, or of violating subdivision (2) of subsection 1 of section 568.045.

3. When probation for the duration of the offender's natural life has been ordered, a mandatory condition of such probation is that the offender be electronically monitored. Electronic monitoring shall be based on a global positioning system or other technology that identifies and records the offender's location at all times.

4. In appropriate cases as determined by a risk assessment, the court may terminate the probation of an offender who is being supervised under this section when the offender is sixty-five years of age or older.

559.115. APPEALS, PROBATION NOT TO BE GRANTED, WHEN — PROBATION GRANTED AFTER DELIVERY TO DEPARTMENT OF CORRECTIONS, TIME LIMITATION, ASSESSMENT — ONE HUNDRED TWENTY DAY PROGRAM — NOTIFICATION TO STATE, WHEN, HEARING — NO PROBATION IN CERTAIN CASES. — 1. Neither probation nor parole shall be granted by the circuit court between the time the transcript on appeal from the offender's conviction has been filed in appellate court and the disposition of the appeal by such court.

2. Unless otherwise prohibited by subsection 8 of this section, a circuit court only upon its own motion and not that of the state or the offender shall have the power to grant probation to an offender anytime up to one hundred twenty days after such offender has been delivered to the department of corrections but not thereafter. The court may request information and a recommendation from the department concerning the offender and such offender's behavior during the period of incarceration. Except as provided in this section, the court may place the

offender on probation in a program created pursuant to section 217.777, or may place the offender on probation with any other conditions authorized by law.

3. The court may recommend placement of an offender in a department of corrections one hundred twenty-day program under this subsection or order such placement under subsection 4 of section 559.036. Upon the recommendation or order of the court, the department of corrections shall assess each offender to determine the appropriate one hundred twenty-day program in which to place the offender, which may include placement in the shock incarceration program or institutional treatment program. When the court recommends and receives placement of an offender in a department of corrections one hundred twenty-day program, the offender shall be released on probation if the department of corrections determines that the offender has successfully completed the program except as follows. Upon successful completion of a program under this subsection, the board of probation and parole shall advise the sentencing court of an offender's probationary release date thirty days prior to release. The court shall follow the recommendation of the department unless the court determines that probation is not appropriate. If the court determines that probation is not appropriate, the court may order the execution of the offender's sentence only after conducting a hearing on the matter within ninety to one hundred twenty days from the date the offender was delivered to the department of corrections. If the department determines the offender has not successfully completed a one hundred twenty-day program under this subsection, the offender shall be removed from the program and the court shall be advised of the removal. The department shall report on the offender's participation in the program and may provide recommendations for terms and conditions of an offender's probation. The court shall then have the power to grant probation or order the execution of the offender's sentence.

4. If the court is advised that an offender is not eligible for placement in a one hundred twenty-day program under subsection 3 of this section, the court shall consider other authorized dispositions. If the department of corrections one hundred twenty-day program under subsection 3 of this section is full, the court may place the offender in a private program approved by the department of corrections or the court, the expenses of such program to be paid by the offender, or in an available program offered by another organization. If the offender is convicted of a class C **[**or**] ,** class D**, or class E** nonviolent felony, the court may order probation while awaiting appointment to treatment.

5. Except when the offender has been found to be a predatory sexual offender pursuant to section **[**558.018**] 566.125**, the court shall request the department of corrections to conduct a sexual offender assessment if the defendant **[**has pleaded guilty to or**]** has been found guilty of sexual abuse when classified as a class B felony. Upon completion of the assessment, the department shall provide to the court a report on the offender and may provide recommendations for terms and conditions of an offender's probation. The assessment shall not be considered a one hundred twenty-day program as provided under subsection 3 of this section. The process for granting probation to an offender who has completed the assessment shall be as provided under subsections 2 and 6 of this section.

6. Unless the offender is being granted probation pursuant to successful completion of a one hundred twenty-day program the circuit court shall notify the state in writing when the court intends to grant probation to the offender pursuant to the provisions of this section. The state may, in writing, request a hearing within ten days of receipt of the court's notification that the court intends to grant probation. Upon the state's request for a hearing, the court shall grant a hearing as soon as reasonably possible. If the state does not respond to the court's notice in writing within ten days, the court may proceed upon its own motion to grant probation.

7. An offender's first incarceration under this section prior to release on probation shall not be considered a previous prison commitment for the purpose of determining a minimum prison term under the provisions of section 558.019.

8. Notwithstanding any other provision of law, probation may not be granted pursuant to this section to offenders who have been convicted of murder in the second degree pursuant to

section 565.021; forcible rape pursuant to section 566.030 as it existed prior to August 28, 2013; rape in the first degree under section 566.030; forcible sodomy pursuant to section 566.060 as it existed prior to August 28, 2013; sodomy in the first degree under section 566.060; statutory rape in the first degree pursuant to section 566.032; statutory sodomy in the first degree pursuant to section 566.062; child molestation in the first degree pursuant to section 566.067 when classified as a class A felony; abuse of a child pursuant to section 568.060 when classified as a class A felony; **or** an offender who has been found to be a predatory sexual offender pursuant to section **[**558.018**]** **566.125**; or any offense in which there exists a statutory prohibition against either probation or parole.

559.633. COURT TO ORDER PARTICIPATION IN PROGRAM, WHEN — FEES DETERMINED BY DEPARTMENT OF CORRECTIONS — SUPPLEMENTAL FEE TO BE DEPOSITED IN CORRECTIONAL SUBSTANCE ABUSE EARNINGS FUND. — 1. Upon **[**a plea of guilty or**]** a finding of **[**guilty for a commission of**]** **guilt for** a felony offense pursuant to chapter 195 **or 579**, except for those offenses in which there exists a statutory prohibition against either probation or parole, when placing the person on probation, the court shall order the person to begin a required educational assessment and community treatment program within the first sixty days of probation as a condition of probation. Persons who are placed on probation after a period of incarceration pursuant to section 559.115 may not be required to participate in a required educational assessment and community treatment program.

2. The fees for the required educational assessment and community treatment program, or a portion of such fees, to be determined by the department of corrections, shall be paid by the person receiving the assessment. Any person who is assessed shall pay, in addition to any fee charged for the assessment, a supplemental fee of sixty dollars. The administrator of the program shall remit to the department of corrections the supplemental fees for all persons assessed, less two percent for administrative costs. The supplemental fees received by the department of corrections pursuant to this section shall be deposited in the correctional substance abuse earnings fund created pursuant to section 559.635.

565.002. DEFINITIONS. — As used in this chapter, unless a different meaning is otherwise plainly required **the following terms mean**:

(1) "Adequate cause" **[**means**] ,** cause that would reasonably produce a degree of passion in a person of ordinary temperament sufficient to substantially impair an ordinary person's capacity for self-control;

(2) **"Child", a person under seventeen years of age;**

(3) "Conduct"**,** includes any act or omission;

(4) "Course of conduct", a pattern of conduct composed of two or more acts, which may include communication by any means, over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of course of conduct. Such constitutionally protected activity includes picketing or other organized protests;

[(3)**]** **(5)** "Deliberation" means cool reflection for any length of time no matter how brief;

[(4) "Intoxicated condition" means under the influence of alcohol, a controlled substance, or drug, or any combination thereof;

(5) "Operates" means physically driving or operating or being in actual physical control of a motor vehicle;

(6) "Serious physical injury" means physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body;**]**

(6) "Domestic victim", a household or family member as the term "family" or "household member" is defined in section 455.010, including any child who is a member of the household or family;

(7) "Emotional distress", something markedly greater than the level of uneasiness, nervousness, unhappiness, or the like which are commonly experienced in day-to-day living;

(8) "Full or partial nudity", the showing of all or any part of the human genitals, pubic area, buttock, or any part of the nipple of the breast of any female person, with less than a fully opaque covering;

(9) "Legal custody", the right to the care, custody and control of a child;

(10) "Parent", either a biological parent or a parent by adoption;

(11) "Person having a right of custody", a parent or legal guardian of the child;

(12) "Photographs" or "films", the making of any photograph, motion picture film, videotape, or any other recording or transmission of the image of a person;

(13) "Place where a person would have a reasonable expectation of privacy", any place where a reasonable person would believe that a person could disrobe in privacy, without being concerned that the person's undressing was being viewed, photographed or filmed by another;

(14) "Special victim", any of the following:

(a) A law enforcement officer assaulted in the performance of his or her official duties or as a direct result of such official duties;

(b) Emergency personnel, any paid or volunteer firefighter, emergency room or trauma center personnel, or emergency medical technician, assaulted in the performance of his or her official duties or as a direct result of such official duties;

(c) A probation and parole officer assaulted in the performance of his or her official duties or as a direct result of such official duties;

(d) An elderly person;

(e) A person with a disability;

(f) A vulnerable person;

(g) Any jailer or corrections officer of the state or one of its political subdivisions assaulted in the performance of his or her official duties or as a direct result of such official duties;

(h) A highway worker in a construction or work zone as the terms "highway worker", "construction zone", and "work zone" are defined under section 304.580;

(i) Any utility worker, meaning any employee of a utility that provides gas, heat, electricity, water, steam, telecommunications services, or sewer services, whether privately, municipally, or cooperatively owned, while in the performance of his or her job duties, including any person employed under a contract;

(j) Any cable worker, meaning any employee of a cable operator, as such term is defined in section 67.2677, including any person employed under contract, while in the performance of his or her job duties; and

(k) Any employee of a mass transit system, including any employee of public bus or light rail companies, while in the performance of his or her job duties;

[(7)**]** **(15)** "Sudden passion" **[**means**]** **,** passion directly caused by and arising out of provocation by the victim or another acting with the victim which passion arises at the time of the offense and is not solely the result of former provocation;

[(8)**]** **(16)** "Trier" **[**means**]** **,** the judge or jurors to whom issues of fact, guilt or innocence, or the assessment and declaration of punishment are submitted for decision**;**

(17) "Views", the looking upon of another person, with the unaided eye or with any device designed or intended to improve visual acuity, for the purpose of arousing or gratifying the sexual desire of any person.

565.073. DOMESTIC ASSAULT, SECOND DEGREE — PENALTY. — 1. A person commits the **[**crime**]** **offense** of domestic assault in the second degree if the act involves a **[**family or household member, including any child who is a member of the family or household, as defined

in section 455.010**] domestic victim, as the term "domestic victim" is defined under section 565.002**, and he or she:

(1) **[**Attempts to cause or**]** Knowingly causes physical injury to such **[**family or household member**] domestic victim** by any means, including but not limited to, **[**by**]** use of a deadly weapon or dangerous instrument, or by choking or strangulation; or

(2) Recklessly causes serious physical injury to such **[**family or household member**] domestic victim**; or

(3) Recklessly causes physical injury to such **[**family or household member**] domestic victim** by means of any deadly weapon.

2. **The offense of** domestic assault in the second degree is a class **[**C**] D** felony.

566.147. CERTAIN OFFENDERS NOT TO RESIDE WITHIN ONE THOUSAND FEET OF A SCHOOL OR CHILD CARE FACILITY. — 1. Any person who, since July 1, 1979, has been or hereafter has **[**pleaded guilty or nolo contendere to, or been convicted of, or**]** been found guilty of:

(1) Violating any of the provisions of this chapter or the provisions of **[**subsection 2 of**]** section 568.020, incest; section 568.045, endangering the welfare of a child in the first degree; subsection 2 of section 568.080 **as it existed prior to January 1, 2017, or section 573.200**, use of a child in a sexual performance; section 568.090 **as it existed prior to January 1, 2017, or section 573.205**, promoting a sexual performance by a child; section 573.023, sexual exploitation of a minor; section 573.025, promoting child pornography in the first degree; section 573.035, promoting child pornography in the second degree; section 573.037, possession of child pornography, or section 573.040, furnishing pornographic material to minors; or

(2) Any offense in any other **[**state or foreign country, or under federal, tribal, or military**]** jurisdiction which, if committed in this state, would be a violation listed in this section;

shall not reside within one thousand feet of any public school as defined in section 160.011, any private school giving instruction in a grade or grades not higher than the twelfth grade, **or** any child care facility that is licensed under chapter 210, or any child care facility as defined in section 210.201 that is exempt from state licensure but subject to state regulation under section 210.252 and holds itself out to be a child care facility, where the school or facility is in existence at the time the individual begins to reside at the location.

2. If such person has already established a residence and a public school, a private school, or child care facility is subsequently built or placed within one thousand feet of such person's residence, then such person shall, within one week of the opening of such public school, private school, or child care facility, notify the county sheriff where such public school, private school, or child care facility is located that he or she is now residing within one thousand feet of such public school, private school, or child care facility and shall provide verifiable proof to the sheriff that he or she resided there prior to the opening of such public school, private school, or child care facility.

3. For purposes of this section, "resides" means sleeps in a residence, which may include more than one location and may be mobile or transitory.

4. Violation of the provisions of subsection 1 of this section is a class **[**D**] E** felony except that the second or any subsequent violation is a class B felony. Violation of the provisions of subsection 2 of this section is a class A misdemeanor except that the second or subsequent violation is a class **[**D**] E** felony.

566.148. CERTAIN OFFENDERS NOT TO PHYSICALLY BE PRESENT OR LOITER WITHIN FIVE HUNDRED FEET OF A CHILD CARE FACILITY — VIOLATION, PENALTY. — 1. Any person who has **[**pleaded guilty or nolo contendere to, or been convicted of, or**]** been found guilty of:

(1) Violating any of the provisions of this chapter or the provisions of **[**subsection 2 of**]** section 568.020, incest; section 568.045, endangering the welfare of a child in the first degree;

subsection 2 of section 568.080 **as it existed prior to January 1, 2017, or section 573.200**, use of a child in a sexual performance; section 568.090 **as it existed prior to January 1, 2017, or section 573.205**, promoting a sexual performance by a child; section 573.023, sexual exploitation of a minor; section 573.025, promoting child pornography in the first degree; section 573.035, promoting child pornography in the second degree; section 573.037, possession of child pornography, or section 573.040, furnishing pornographic material to minors; or

(2) Any offense in any other **[**state or foreign country, or under federal, tribal, or military**]** jurisdiction which, if committed in this state, would be a violation listed in this section;

shall not knowingly be physically present in or loiter within five hundred feet of or to approach, contact, or communicate with any child under eighteen years of age in any child care facility building, on the real property comprising any child care facility when persons under the age of eighteen are present in the building, on the grounds, or in the conveyance, unless the offender is a parent, legal guardian, or custodian of a student present in the building or on the grounds.

2. For purposes of this section, "child care facility" shall **[**have the same meaning as such term is defined in section 210.201**]** **include any child care facility licensed under chapter 210, or any child care facility that is exempt from state licensure but subject to state regulation under section 210.252 and holds itself out to be a child care facility**.

3. **[**Any person who violates**]** **Violation of** the provisions of this section is **[**guilty of**]** a class A misdemeanor.

566.149. CERTAIN OFFENDERS NOT TO BE PRESENT WITHIN FIVE HUNDRED FEET OF SCHOOL PROPERTY, EXCEPTION — PERMISSION REQUIRED FOR PARENTS OR GUARDIANS WHO ARE OFFENDERS, PROCEDURE — PENALTY. — 1. Any person who has **[**pleaded guilty or nolo contendere to, or been convicted of, or**]** been found guilty of:

(1) Violating any of the provisions of this chapter or the provisions **[**of subsection 2**]** of section 568.020, incest; section 568.045, endangering the welfare of a child in the first degree; subsection 2 of section 568.080 **as it existed prior to January 1, 2017, or section 573.200**, use of a child in a sexual performance; section 568.090 **as it existed prior to January 1, 2017, or section 573.205**, promoting a sexual performance by a child; section 573.023, sexual exploitation of a minor; section 573.025, promoting child pornography; or section 573.040, furnishing pornographic material to minors; or

(2) Any offense in any other **[**state or foreign country, or under tribal, federal, or military**]** jurisdiction which, if committed in this state, would be a violation listed in this section;

shall not be present in or loiter within five hundred feet of any school building, on real property comprising any school, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity when persons under the age of eighteen are present in the building, on the grounds, or in the conveyance, unless the offender is a parent, legal guardian, or custodian of a student present in the building and has met the conditions set forth in subsection 2 of this section.

2. No parent, legal guardian, or custodian who has **[**pleaded guilty or nolo contendere to, or been convicted of, or**]** been found guilty of violating any of the offenses listed in subsection 1 of this section shall be present in any school building, on real property comprising any school, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity when persons under the age of eighteen are present in the building, on the grounds or in the conveyance unless the parent, legal guardian, or custodian has permission to be present from the superintendent or school board or in the case of a private school from the principal. In the case of a public school, if permission is granted, the superintendent or school board president must inform the principal of the school where the sex offender will be present. Permission may be granted by the superintendent, school board, or in the case of a private school from the principal for more than one event at a time, such as a series

of events, however, the parent, legal guardian, or custodian must obtain permission for any other event he or she wishes to attend for which he or she has not yet had permission granted.

3. Regardless of the person's knowledge of his or her proximity to school property or a school-related activity, violation of the provisions of this section **[**shall be**]** **is** a class A misdemeanor.

577.001. CHAPTER DEFINITIONS. — **[**1.**]** As used in this chapter, **[**the term "court" means any circuit, associate circuit, or municipal court, including traffic court, but not any juvenile court or drug court.

2. As used in this chapter, the term "drive", "driving", "operates" or "operating" means physically driving or operating a motor vehicle.

3. As used in this chapter, a person is in an "intoxicated condition" when he is under the influence of alcohol, a controlled substance, or drug, or any combination thereof.

4. As used in this chapter, the term "law enforcement officer" or "arresting officer" includes the definition of law enforcement officer in subdivision (17) of section 556.061 and military policemen conducting traffic enforcement operations on a federal military installation under military jurisdiction in the state of Missouri.

5. As used in this chapter, "substance abuse traffic offender program" means a program certified by the division of alcohol and drug abuse of the department of mental health to provide education or rehabilitation services pursuant to a professional assessment screening to identify the individual needs of the person who has been referred to the program as the result of an alcohol- or drug-related traffic offense. Successful completion of such a program includes participation in any education or rehabilitation program required to meet the needs identified in the assessment screening. The assignment recommendations based upon such assessment shall be subject to judicial review as provided in subsection 7 of section 577.041**]** **the following terms mean:**

(1) "Aggravated offender", a person who has been found guilty of:

(a) Three or more intoxication-related traffic offenses committed on separate occasions; or

(b) Two or more intoxication-related traffic offenses committed on separate occasions where at least one of the intoxication-related traffic offenses is an offense committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vehicle while intoxicated and another person was injured or killed;

(2) "Aggravated boating offender", a person who has been found guilty of:

(a) Three or more intoxication-related boating offenses; or

(b) Has been found guilty of one or more intoxication-related boating offenses committed on separate occasions where at least one of the intoxication-related traffic offenses is an offense committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vessel while intoxicated and another person was injured or killed;

(3) "All-terrain vehicle", any motorized vehicle manufactured and used exclusively for off-highway use which is fifty inches or less in width, with an unladen dry weight of one thousand pounds or less, traveling on three, four or more low pressure tires, with a seat designed to be straddled by the operator, or with a seat designed to carry more than one person, and handlebars for steering control;

(4) "Court", any circuit, associate circuit, or municipal court, including traffic court, but not any juvenile court or drug court;

(5) "Chronic offender", a person who has been found guilty of:

(a) Four or more intoxication-related traffic offenses committed on separate occasions; or

(b) Three or more intoxication-related traffic offenses committed on separate occasions where at least one of the intoxication-related traffic offenses is an offense

committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vehicle while intoxicated and another person was injured or killed; or

(c) Two or more intoxication-related traffic offenses committed on separate occasions where both intoxication-related traffic offenses were offenses committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vehicle while intoxicated and another person was injured or killed;

(6) "Chronic boating offender", a person who has been found guilty of:

(a) Four or more intoxication-related boating offenses; or

(b) Three or more intoxication-related boating offenses committed on separate occasions where at least one of the intoxication-related boating offenses is an offense committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vessel while intoxicated and another person was injured or killed; or

(c) Two or more intoxication-related boating offenses committed on separate occasions where both intoxication-related boating offenses were offenses committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vessel while intoxicated and another person was injured or killed;

(7) "Controlled substance", a drug, substance, or immediate precursor in schedules I to V listed in section 195.017;

(8) "Drive", "driving", "operates" or "operating", means physically driving or operating a vehicle or vessel;

(9) "Flight crew member", the pilot in command, copilots, flight engineers, and flight navigators;

(10) "Habitual offender", a person who has been found guilty of:

(a) Five or more intoxication-related traffic offenses committed on separate occasions; or

(b) Four or more intoxication-related traffic offenses committed on separate occasions where at least one of the intoxication-related traffic offenses is an offense committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vehicle while intoxicated and another person was injured or killed; or

(c) Three or more intoxication-related traffic offenses committed on separate occasions where at least two of the intoxication-related traffic offenses were offenses committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vehicle while intoxicated and another person was injured or killed; or

(d) While driving while intoxicated, the defendant acted with criminal negligence to:

a. Cause the death of any person not a passenger in the vehicle operated by the defendant, including the death of an individual that results from the defendant's vehicle leaving a highway, as defined by section 301.010, or the highway's right-of-way; or

b. Cause the death of two or more persons; or

c. Cause the death of any person while he or she has a blood alcohol content of at least eighteen-hundredths of one percent by weight of alcohol in such person's blood;

(11) "Habitual boating offender", a person who has been found guilty of:

(a) Five or more intoxication-related boating offenses; or

(b) Four or more intoxication-related boating offenses committed on separate occasions where at least one of the intoxication-related boating offenses is an offense committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vessel while intoxicated and another person was injured or killed; or

(c) Three or more intoxication-related boating offenses committed on separate occasions where at least two of the intoxication-related boating offenses were offenses committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vessel while intoxicated and another person was injured or killed; or

(d) While boating while intoxicated, the defendant acted with criminal negligence to:

a. Cause the death of any person not a passenger in the vessel operated by the defendant, including the death of an individual that results from the defendant's vessel leaving the water; or

b. Cause the death of two or more persons; or

c. Cause the death of any person while he or she has a blood alcohol content of at least eighteen-hundredths of one percent by weight of alcohol in such person's blood;

(12) "Intoxicated" or "intoxicated condition", when a person is under the influence of alcohol, a controlled substance, or drug, or any combination thereof;

(13) "Intoxication-related boating offense", operating a vessel while intoxicated; boating while intoxicated; operating a vessel with excessive blood alcohol content or an offense in which the defendant was operating a vessel while intoxicated and another person was injured or killed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense;

(14) "Intoxication-related traffic offense", driving while intoxicated, driving with excessive blood alcohol content or an offense in which the defendant was operating a vehicle while intoxicated and another person was injured or killed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense;

(15) "Law enforcement officer" or "arresting officer", includes the definition of law enforcement officer in section 556.061 and military policemen conducting traffic enforcement operations on a federal military installation under military jurisdiction in the state of Missouri;

(16) "Operate a vessel", to physically control the movement of a vessel in motion under mechanical or sail power in water;

(17) "Persistent offender", a person who has been found guilty of two or more intoxication-related traffic offenses committed on separate occasions;

(18) "Persistent boating offender", a person who has been found guilty of two or more intoxication-related boating offenses committed on separate occasions;

(19) "Prior offender", a person who has been found guilty of one intoxication-related traffic offense, where such prior offense occurred within five years of the occurrence of the intoxication-related traffic offense for which the person is charged;

(20) "Prior boating offender", a person who has been found guilty of one intoxication-related boating offense, where such prior offense occurred within five years of the occurrence of the intoxication-related boating offense for which the person is charged.

577.010. DRIVING WHILE INTOXICATED — SENTENCING RESTRICTIONS. — 1. A person commits the **[**crime**]** **offense** of **["]**driving while intoxicated**["]** if he **or she** operates a **[**motor**]** vehicle while in an intoxicated **[**or drugged**]** condition.

2. **The offense of** driving while intoxicated is **[**for the first offense, a class B misdemeanor. No person convicted of or pleading guilty to the offense of driving while intoxicated shall be granted a suspended imposition of sentence for such offense, unless such person shall be placed on probation for a minimum of two years**]** **:**

(1) A class B misdemeanor;

(2) A class A misdemeanor if:

(a) The defendant is a prior offender; or

(b) A person less than seventeen years of age is present in the vehicle;

(3) A class E felony if:

(a) The defendant is a persistent offender; or

(b) While driving while intoxicated, the defendant acts with criminal negligence to cause physical injury to another person;

(4) A class D felony if:

(a) The defendant is an aggravated offender;

(b) While driving while intoxicated, the defendant acts with criminal negligence to cause physical injury to a law enforcement officer or emergency personnel; or

(c) While driving while intoxicated, the defendant acts with criminal negligence to cause serious physical injury to another person;

(5) A class C felony if:

(a) The defendant is a chronic offender;

(b) While driving while intoxicated, the defendant acts with criminal negligence to cause serious physical injury to a law enforcement officer or emergency personnel; or

(c) While driving while intoxicated, the defendant acts with criminal negligence to cause the death of another person;

(6) A class B felony if:

(a) The defendant is a habitual offender; or

(b) While driving while intoxicated, the defendant acts with criminal negligence to cause the death of a law enforcement officer or emergency personnel;

(7) A class A felony if the defendant is a habitual offender as a result of being found guilty of an act described under paragraph (d) of subdivision (10) of section 577.001 and is found guilty of a subsequent violation of such paragraph.

3. Notwithstanding the provisions of subsection 2 of this section, **[**in a circuit where a DWI court or docket created under section 478.007 or other court-ordered treatment program is available, no person who operated a motor vehicle with fifteen-hundredths of one percent or more by weight of alcohol in such person's blood shall be granted a suspended imposition of sentence unless the individual participates and successfully completes a program under such DWI court or docket or other court-ordered treatment program**] a person found guilty of the offense of driving while intoxicated as a first offense shall not be granted a suspended imposition of sentence:**

(1) Unless such person shall be placed on probation for a minimum of two years; or

(2) In a circuit where a DWI court or docket created under section 478.007 or other court-ordered treatment program is available, and where the offense was committed with fifteen-hundredths of one percent or more by weight of alcohol in such person's blood, unless the individual participates and successfully completes a program under such DWI court or docket or other court-ordered treatment program.

4. If a person is not granted a suspended imposition of sentence for the reasons described in subsection 3 of this section **[**for such first offense**]**:

(1) If the individual operated the **[**motor**]** vehicle with fifteen-hundredths to twenty-hundredths of one percent by weight of alcohol in such person's blood, the required term of imprisonment shall be not less than forty-eight hours;

(2) If the individual operated the **[**motor**]** vehicle with greater than twenty-hundredths of one percent by weight of alcohol in such person's blood, the required term of imprisonment shall be not less than five days.

5. A person found guilty of the offense of driving while intoxicated:

(1) As a prior offender, persistent offender, aggravated offender, chronic offender, or habitual offender shall not be granted a suspended imposition of sentence or be sentenced to pay a fine in lieu of a term of imprisonment, section 557.011 to the contrary notwithstanding;

(2) As a prior offender shall not be granted parole or probation until he or she has served a minimum of ten days imprisonment:

(a) Unless as a condition of such parole or probation such person performs at least thirty days of community service under the supervision of the court in those jurisdictions which have a recognized program for community service; or

(b) The offender participates in and successfully completes a program established under section 478.007 or other court-ordered treatment program, if available, and as part of either program, the offender performs at least thirty days of community service under the supervision of the court;

(3) As a persistent offender shall not be eligible for parole or probation until he or she has served a minimum of thirty days imprisonment:

(a) Unless as a condition of such parole or probation such person performs at least sixty days of community service under the supervision of the court in those jurisdictions which have a recognized program for community service; or

(b) The offender participates in and successfully completes a program established under section 478.007 or other court-ordered treatment program, if available, and as part of either program, the offender performs at least sixty days of community service under the supervision of the court;

(4) As an aggravated offender shall not be eligible for parole or probation until he or she has served a minimum of sixty days imprisonment;

(5) As a chronic offender shall not be eligible for parole or probation until he or she has served a minimum of two years imprisonment.

577.013. BOATING WHILE INTOXICATED — SENTENCING RESTRICTIONS. — 1. A person commits the offense of boating while intoxicated if he or she operates a vessel while in an intoxicated condition.

2. The offense of boating while intoxicated is:

(1) A class B misdemeanor;

(2) A class A misdemeanor if:

(a) The defendant is a prior boating offender; or

(b) A person less than seventeen years of age is present in the vessel;

(3) A class E felony if:

(a) The defendant is a persistent boating offender; or

(b) While boating while intoxicated, the defendant acts with criminal negligence to cause physical injury to another person;

(4) A class D felony if:

(a) The defendant is an aggravated boating offender;

(b) While boating while intoxicated, the defendant acts with criminal negligence to cause physical injury to a law enforcement officer or emergency personnel; or

(c) While boating while intoxicated, the defendant acts with criminal negligence to cause serious physical injury to another person;

(5) A class C felony if:

(a) The defendant is a chronic boating offender;

(b) While boating while intoxicated, the defendant acts with criminal negligence to cause serious physical injury to a law enforcement officer or emergency personnel; or

(c) While boating while intoxicated, the defendant acts with criminal negligence to cause the death of another person;

(6) A class B felony if:

(a) The defendant is a habitual boating offender; or

(b) While boating while intoxicated, the defendant acts with criminal negligence to cause the death of a law enforcement officer or emergency personnel;

(7) A class A felony if the defendant is a habitual offender as a result of being found guilty of an act described under paragraph (d) of subdivision (11) of section 577.001 and is found guilty of a subsequent violation of such paragraph.

3. Notwithstanding the provisions of subsection 2 of this section, a person found guilty of the offense of boating while intoxicated as a first offense shall not be granted a suspended imposition of sentence:

(1) Unless such person shall be placed on probation for a minimum of two years; or

(2) In a circuit where a DWI court or docket created under section 478.007 or other court-ordered treatment program is available, and where the offense was committed with fifteen-hundredths of one percent or more by weight of alcohol in such person's blood, unless the individual participates in and successfully completes a program under such DWI court or docket or other court-ordered treatment program.

4. If a person is not granted a suspended imposition of sentence for the reasons described in subsection 3 of this section:

(1) If the individual operated the vessel with fifteen-hundredths to twenty-hundredths of one percent by weight of alcohol in such person's blood, the required term of imprisonment shall be not less than forty-eight hours;

(2) If the individual operated the vessel with greater than twenty-hundredths of one percent by weight of alcohol in such person's blood, the required term of imprisonment shall be not less than five days.

5. A person found guilty of the offense of boating while intoxicated:

(1) As a prior boating offender, persistent boating offender, aggravated boating offender, chronic boating offender or habitual boating offender shall not be granted a suspended imposition of sentence or be sentenced to pay a fine in lieu of a term of imprisonment, section 557.011 to the contrary notwithstanding;

(2) As a prior boating offender shall not be granted parole or probation until he or she has served a minimum of ten days imprisonment;

(a) Unless as a condition of such parole or probation such person performs at least two hundred forty hours of community service under the supervision of the court in those jurisdictions which have a recognized program for community service; or

(b) The offender participates in and successfully completes a program established under section 478.007 or other court-ordered treatment program, if available;

(3) As a persistent offender shall not be eligible for parole or probation until he or she has served a minimum of thirty days imprisonment:

(a) Unless as a condition of such parole or probation such person performs at least four hundred eighty hours of community service under the supervision of the court in those jurisdictions which have a recognized program for community service; or

(b) The offender participates in and successfully completes a program established under section 478.007 or other court-ordered treatment program, if available;

(4) As an aggravated boating offender shall not be eligible for parole or probation until he or she has served a minimum of sixty days imprisonment;

(5) As a chronic boating offender shall not be eligible for parole or probation until he or she has served a minimum of two years imprisonment.

577.020. CHEMICAL TESTS FOR ALCOHOL CONTENT OF BLOOD — CONSENT IMPLIED, WHEN — ADMINISTERED, WHEN, HOW — INFORMATION AVAILABLE TO PERSON TESTED, CONTENTS — VIDEOTAPING OF CHEMICAL OR FIELD SOBRIETY TEST ADMISSIBLE EVIDENCE. — 1. Any person who operates a **[**motor**]** vehicle upon the public highways of this state**, a vessel, or any aircraft, or acts as a flight crew member of an aircraft** shall be deemed to have given consent **[**to**]**, subject to the provisions of sections 577.019 to 577.041**, to** a chemical test or tests of the person's breath, blood, saliva**,** or urine for the purpose of determining the alcohol or drug content of the person's blood pursuant to the following circumstances:

(1) If the person is arrested for any offense arising out of acts which the arresting officer had reasonable grounds to believe were committed while the person was **[**driving a motor**]** **operating a** vehicle **or a vessel** while in an intoxicated **[**or drugged**]** condition; **[**or**]**

(2) **If the person is detained for any offense of operating an aircraft while intoxicated under section 577.015 or operating an aircraft with excessive blood alcohol content under section 577.016;**

(3) If the person is under the age of twenty-one, has been stopped by a law enforcement officer, and the law enforcement officer has reasonable grounds to believe that such person was **[**driving a motor**]** **operating a** vehicle **or a vessel** with a blood alcohol content of two-hundredths of one percent or more by weight; **[**or**]**

[(3)**]** **(4)** If the person is under the age of twenty-one, has been stopped by a law enforcement officer, and the law enforcement officer has reasonable grounds to believe that such person has committed a violation of the traffic laws of the state, or any political subdivision of the state, and such officer has reasonable grounds to believe, after making such stop, that such person has a blood alcohol content of two-hundredths of one percent or greater;

[(4)**]** **(5)** If the person is under the age of twenty-one, has been stopped at a sobriety checkpoint or roadblock and the law enforcement officer has reasonable grounds to believe that such person has a blood alcohol content of two-hundredths of one percent or greater; **or**

[(5)**]** **(6)** If the person, while operating a **[**motor**]** vehicle, has been involved in a **[**motor vehicle**]** collision **or accident** which resulted in a fatality or a readily apparent serious physical injury as defined in section **[**565.002**]** **556.061**, or has been arrested as evidenced by the issuance of a uniform traffic ticket for the violation of any state law or county or municipal ordinance with the exception of equipment violations contained in **[**chapter**]** **chapters** 306 **and 307**, or similar provisions contained in county or municipal ordinances**[**; or**]** **.**

[(6) If the person, while operating a motor vehicle, has been involved in a motor vehicle collision which resulted in a fatality or serious physical injury as defined in section 565.002.**]**

The test shall be administered at the direction of the law enforcement officer whenever the person has been **[**arrested or**]** stopped**, detained, or arrested** for any reason.

2. The implied consent to submit to the chemical tests listed in subsection 1 of this section shall be limited to not more than two such tests arising from the same **stop, detention,** arrest, incident or charge.

3. **To be considered valid,** chemical analysis of the person's breath, blood, saliva, or urine **[**to be considered valid pursuant to the provisions of sections 577.019 to 577.041**]** shall be performed**,** according to methods approved by the state department of health and senior services**,** by licensed medical personnel or by a person possessing a valid permit issued by the state department of health and senior services for this purpose.

4. The state department of health and senior services shall approve satisfactory techniques, devices, equipment, or methods to be **[**considered valid**]** **used in the chemical test** pursuant to the provisions of sections 577.019 to 577.041 **[**and**]** **. The department** shall **also** establish standards to ascertain the qualifications and competence of individuals to conduct **such** analyses and **[**to**]** issue permits which shall be subject to termination or revocation by the state department of health and senior services.

5. The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person at the choosing and expense of the person to be tested, administer a test in addition to any administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test taken at the direction of a law enforcement officer.

6. Upon the request of the person who is tested, full information concerning the test shall be made available to such person. Full information is limited to the following:

(1) The type of test administered and the procedures followed;

(2) The time of the collection of the blood **[**or**]** **,** breath **[**sample**]** **,** or urine **sample** analyzed;

(3) The numerical results of the test indicating the alcohol content of the blood and breath and urine;

(4) The type and status of any permit which was held by the person who performed the test;

(5) If the test was administered by means of a breath-testing instrument, the date [of performance] of the most recent [required] maintenance of such instrument. Full information does not include manuals, schematics, or software of the instrument used to test the person or any other material that is not in the actual possession of the state. Additionally, full information does not include information in the possession of the manufacturer of the test instrument.

7. Any person given a chemical test of the person's breath pursuant to subsection 1 of this section or a field sobriety test may be videotaped during any such test at the direction of the law enforcement officer. Any such video recording made during the chemical test pursuant to this subsection or a field sobriety test shall be admissible as evidence at [either] any trial of such person for [either] a violation of any state law or county or municipal ordinance, [or] **and at** any license revocation or suspension proceeding **held** pursuant to the provisions of chapter 302.

577.037. CHEMICAL TESTS, RESULTS ADMITTED INTO EVIDENCE, WHEN, EFFECT OF. — 1. Upon the trial of any person for [violation of any of the provisions of section 565.024, or section 565.060, or section 577.010 or 577.012, or upon the trial of any criminal action] **any criminal offense** or violations of county or municipal ordinances**,** or in any license suspension or revocation proceeding pursuant to the provisions of chapter 302**,** arising out of acts alleged to have been committed by any person while [driving] **operating** a [motor] vehicle**, vessel, or aircraft, or acting as a flight crew member of any aircraft,** while in an intoxicated condition **or with an excessive blood alcohol content**, the amount of alcohol in the person's blood at the time of the act [alleged] **,** as shown by any chemical analysis of the person's blood, breath, saliva**,** or urine**,** is admissible in evidence and the provisions of subdivision (5) of section 491.060 shall not prevent the admissibility or introduction of such evidence if otherwise admissible. [If there was eight-hundredths of one percent or more by weight of alcohol in the person's blood, this shall be prima facie evidence that the person was intoxicated at the time the specimen was taken.]

2. **If a chemical analysis of the defendant's breath, blood, saliva, or urine demonstrates there was eight-hundredths of one percent or more by weight of alcohol in the person's blood, this shall be prima facie evidence that the person was intoxicated at the time the specimen was taken. If a chemical analysis of the defendant's breath, blood, saliva, or urine demonstrates that there was less than eight-hundredths of one percent of alcohol in the defendant's blood, any charge alleging a criminal offense related to the operation of a vehicle, vessel, or aircraft while in an intoxicated condition or with an excessive blood alcohol content shall be dismissed with prejudice unless one or more of the following considerations cause the court to find a dismissal unwarranted:**

(1) There is evidence that the chemical analysis is unreliable as evidence of the defendant's intoxication at the time of the alleged violation due to the lapse of time between the alleged violation and the obtaining of the specimen;

(2) There is evidence that the defendant was under the influence of a controlled substance, or drug, or a combination of either or both with or without alcohol; or

(3) There is substantial evidence of intoxication from physical observations of witnesses or admissions of the defendant.

3. Percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred milliliters of blood or grams of alcohol per two hundred ten liters of breath.

[3.] **4.** The foregoing provisions of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question **of** whether the person was intoxicated.

[4.] **5.** A chemical analysis of a person's breath, blood, saliva or urine, in order to give rise to the presumption or to have the effect provided for in subsection [1] **2** of this section, shall have been performed as provided in sections 577.020 to 577.041 and in accordance with methods and standards approved by the state department of health and senior services.

[5. Any charge alleging a violation of section 577.010 or 577.012 or any county or municipal ordinance prohibiting driving while intoxicated or driving under the influence of

alcohol shall be dismissed with prejudice if a chemical analysis of the defendant's breath, blood, saliva, or urine performed in accordance with sections 577.020 to 577.041 and rules promulgated thereunder by the state department of health and senior services demonstrate that there was less than eight-hundredths of one percent of alcohol in the defendant's blood unless one or more of the following considerations cause the court to find a dismissal unwarranted:

(1) There is evidence that the chemical analysis is unreliable as evidence of the defendant's intoxication at the time of the alleged violation due to the lapse of time between the alleged violation and the obtaining of the specimen;

(2) There is evidence that the defendant was under the influence of a controlled substance, or drug, or a combination of either or both with or without alcohol; or

(3) There is substantial evidence of intoxication from physical observations of witnesses or admissions of the defendant.**]**

577.041. REFUSAL TO SUBMIT TO CHEMICAL TEST — ADMISSIBILITY — REQUEST TO INCLUDE REASONS AND EFFECT OF REFUSAL. — 1. If a person under arrest, or who has been **detained pursuant to subdivision (2) of subsection 1 of section 577.020, or** stopped pursuant to subdivision **[**(2) or**]** (3) **or (4)** of subsection 1 of section 577.020, refuses upon the request of the officer to submit to any test allowed pursuant to section 577.020, then evidence of the refusal shall be admissible in **[**a**] any** proceeding **[**pursuant to section 565.024, 565.060, or 565.082, or section 577.010 or 577.012**] related to the acts resulting in such detention, stop, or arrest**.

2. The request of the officer **to submit to any chemical test** shall include the reasons of the officer for requesting the person to submit to a test and also shall inform the person that evidence of refusal to take the test may be used against such person **[**and that the person's**] . If such person was operating a vehicle prior to such detention, stop, or arrest, he or she shall further be informed that his or her** license shall be immediately revoked upon refusal to take the test.

3. If a person when requested to submit to any test allowed pursuant to section 577.020 requests to speak to an attorney, the person shall be granted twenty minutes in which to attempt to contact an attorney. If**,** upon the completion of the twenty-minute period the person continues to refuse to submit to any test, it shall be deemed a refusal. **[**In this event, the officer shall, on behalf of the director of revenue, serve the notice of license revocation personally upon the person and shall take possession of any license to operate a motor vehicle issued by this state which is held by that person. The officer shall issue a temporary permit, on behalf of the director of revenue, which is valid for fifteen days and shall also give the person a notice of such person's right to file a petition for review to contest the license revocation.

2. The officer shall make a certified report under penalties of perjury for making a false statement to a public official. The report shall be forwarded to the director of revenue and shall include the following:

(1) That the officer has:

(a) Reasonable grounds to believe that the arrested person was driving a motor vehicle while in an intoxicated or drugged condition; or

(b) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more by weight; or

(c) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was committing a violation of the traffic laws of the state, or political subdivision of the state, and such officer has reasonable grounds to believe, after making such stop, that the person had a blood alcohol content of two-hundredths of one percent or greater;

(2) That the person refused to submit to a chemical test;

(3) Whether the officer secured the license to operate a motor vehicle of the person;

(4) Whether the officer issued a fifteen-day temporary permit;

(5) Copies of the notice of revocation, the fifteen-day temporary permit and the notice of the right to file a petition for review, which notices and permit may be combined in one document; and

(6) Any license to operate a motor vehicle which the officer has taken into possession.

3. Upon receipt of the officer's report, the director shall revoke the license of the person refusing to take the test for a period of one year; or if the person is a nonresident, such person's operating permit or privilege shall be revoked for one year; or if the person is a resident without a license or permit to operate a motor vehicle in this state, an order shall be issued denying the person the issuance of a license or permit for a period of one year.

4. If a person's license has been revoked because of the person's refusal to submit to a chemical test, such person may petition for a hearing before a circuit division or associate division of the court in the county in which the arrest or stop occurred. The person may request such court to issue an order staying the revocation until such time as the petition for review can be heard. If the court, in its discretion, grants such stay, it shall enter the order upon a form prescribed by the director of revenue and shall send a copy of such order to the director. Such order shall serve as proof of the privilege to operate a motor vehicle in this state and the director shall maintain possession of the person's license to operate a motor vehicle until termination of any revocation pursuant to this section. Upon the person's request the clerk of the court shall notify the prosecuting attorney of the county and the prosecutor shall appear at the hearing on behalf of the director of revenue. At the hearing the court shall determine only:

(1) Whether or not the person was arrested or stopped;

(2) Whether or not the officer had:

(a) Reasonable grounds to believe that the person was driving a motor vehicle while in an intoxicated or drugged condition; or

(b) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more by weight; or

(c) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was committing a violation of the traffic laws of the state, or political subdivision of the state, and such officer had reasonable grounds to believe, after making such stop, that the person had a blood alcohol content of two-hundredths of one percent or greater; and

(3) Whether or not the person refused to submit to the test.

5. If the court determines any issue not to be in the affirmative, the court shall order the director to reinstate the license or permit to drive.

6. Requests for review as provided in this section shall go to the head of the docket of the court wherein filed.

7. No person who has had a license to operate a motor vehicle suspended or revoked pursuant to the provisions of this section shall have that license reinstated until such person has participated in and successfully completed a substance abuse traffic offender program defined in section 577.001, or a program determined to be comparable by the department of mental health or the court. Assignment recommendations, based upon the needs assessment as described in subdivision (24) of section 302.010, shall be delivered in writing to the person with written notice that the person is entitled to have such assignment recommendations reviewed by the court if the person objects to the recommendations. The person may file a motion in the associate division of the circuit court of the county in which such assignment was given, on a printed form provided by the state courts administrator, to have the court hear and determine such motion pursuant to the provisions of chapter 517. The motion shall name the person or entity making the needs assessment as the respondent and a copy of the motion shall be served upon the respondent in any manner allowed by law. Upon hearing the motion, the court may modify or waive any assignment recommendation that the court determines to be unwarranted based upon a review of the needs assessment, the person's driving record, the circumstances surrounding the offense, and the likelihood of the person committing a like offense in the future,

except that the court may modify but may not waive the assignment to an education or rehabilitation program of a person determined to be a prior or persistent offender as defined in section 577.023, or of a person determined to have operated a motor vehicle with fifteen-hundredths of one percent or more by weight in such person's blood. Compliance with the court determination of the motion shall satisfy the provisions of this section for the purpose of reinstating such person's license to operate a motor vehicle. The respondent's personal appearance at any hearing conducted pursuant to this subsection shall not be necessary unless directed by the court.

8. The fees for the substance abuse traffic offender program, or a portion thereof to be determined by the division of alcohol and drug abuse of the department of mental health, shall be paid by the person enrolled in the program. Any person who is enrolled in the program shall pay, in addition to any fee charged for the program, a supplemental fee to be determined by the department of mental health for the purposes of funding the substance abuse traffic offender program defined in section 302.010 and section 577.001. The administrator of the program shall remit to the division of alcohol and drug abuse of the department of mental health on or before the fifteenth day of each month the supplemental fee for all persons enrolled in the program, less two percent for administrative costs. Interest shall be charged on any unpaid balance of the supplemental fees due the division of alcohol and drug abuse pursuant to this section and shall accrue at a rate not to exceed the annual rates established pursuant to the provisions of section 32.065, plus three percentage points. The supplemental fees and any interest received by the department of mental health pursuant to this section shall be deposited in the mental health earnings fund which is created in section 630.053.

9. Any administrator who fails to remit to the division of alcohol and drug abuse of the department of mental health the supplemental fees and interest for all persons enrolled in the program pursuant to this section shall be subject to a penalty equal to the amount of interest accrued on the supplemental fees due the division pursuant to this section. If the supplemental fees, interest, and penalties are not remitted to the division of alcohol and drug abuse of the department of mental health within six months of the due date, the attorney general of the state of Missouri shall initiate appropriate action of the collection of said fees and interest accrued. The court shall assess attorney fees and court costs against any delinquent program.

10. Any person who has had a license to operate a motor vehicle revoked under this section and who has a prior alcohol-related enforcement contact, as defined in section 302.525, shall be required to file proof with the director of revenue that any motor vehicle operated by the person is equipped with a functioning, certified ignition interlock device as a required condition of license reinstatement. Such ignition interlock device shall further be required to be maintained on all motor vehicles operated by the person for a period of not less than six months immediately following the date of reinstatement. If the monthly monitoring reports show that the ignition interlock device has registered any confirmed blood alcohol concentration readings above the alcohol setpoint established by the department of transportation or that the person has tampered with or circumvented the ignition interlock device, then the period for which the person must maintain the ignition interlock device following the date of reinstatement shall be extended for an additional six months. If the person fails to maintain such proof with the director as required by this section, the license shall be rerevoked and the person shall be guilty of a class A misdemeanor.

11. The revocation period of any person whose license and driving privilege has been revoked under this section and who has filed proof of financial responsibility with the department of revenue in accordance with chapter 303 and is otherwise eligible, shall be terminated by a notice from the director of revenue after one year from the effective date of the revocation. Unless proof of financial responsibility is filed with the department of revenue, the revocation shall remain in effect for a period of two years from its effective date. If the person fails to maintain proof of financial responsibility in accordance with chapter 303, the person's license and driving privilege shall be rerevoked and the person shall be guilty of a class A misdemeanor.**]**

579.060. UNLAWFUL SALE, DISTRIBUTION, OR PURCHASE OF OVER-THE-COUNTER METHAMPHETAMINE PRECURSOR DRUGS — VIOLATION, PENALTY. — 1. A person commits the offense of unlawful sale, distribution, or purchase of over-the-counter methamphetamine precursor drugs if he or she knowingly:

(1) Sells, distributes, dispenses, or otherwise provides any number of packages of any drug product containing detectable amounts of ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts, optical isomers, or salts of optical isomers, in a total amount greater than nine grams to the same individual within a thirty-day period, unless the amount is dispensed, sold, or distributed pursuant to a valid prescription; or

(2) Purchases, receives, or otherwise acquires within a thirty-day period any number of packages of any drug product containing any detectable amount of ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts or optical isomers, or salts of optical isomers in a total amount greater than nine grams, without regard to the number of transactions, unless the amount is purchased, received, or acquired pursuant to a valid prescription; or

(3) Purchases, receives, or otherwise acquires within a twenty-four-hour period any number of packages of any drug product containing any detectable amount of ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts or optical isomers, or salts of optical isomers in a total amount greater than three and six-tenths grams, without regard to the number of transactions, unless the amount is purchased, received, or acquired pursuant to a valid prescription; or

(4) Dispenses or offers drug products that are not excluded from Schedule V in subsection 17 or 18 of section 195.017 and that contain detectable amounts of ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts, optical isomers, or salts of optical isomers, without ensuring that such products are located behind a pharmacy counter where the public is not permitted and that such products are dispensed by a registered pharmacist or pharmacy technician under subsection 11 of section 195.017; or

(5) Holds a retail sales license issued under chapter 144 and knowingly sells or dispenses packages that do not conform to the packaging requirements of section 195.418.

2. A pharmacist, intern pharmacist, or registered pharmacy technician commits the offense of unlawful sale, distribution, or purchase of over-the-counter methamphetamine precursor drugs if he or she knowingly:

(1) Sells, distributes, dispenses, or otherwise provides any number of packages of any drug product containing detectable amounts of ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts or optical isomers, or salts of optical isomers, in a total amount greater than three and six-tenth grams to the same individual within a twenty-four hour period, unless the amount is dispensed, sold, or distributed pursuant to a valid prescription; or

(2) Fails to submit information under subsection 13 of section 195.017 and subsection 5 of section 195.417 about the sales of any compound, mixture, or preparation of products containing detectable amounts of ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts, optical isomers, or salts of optical isomers, in accordance with transmission methods and frequency established by the department of health and senior services; or

(3) Fails to implement and maintain an electronic log, as required by subsection 12 of section 195.017, of each transaction involving any detectable quantity of pseudoephedrine, its salts, isomers, or salts of optical isomers or ephedrine, its salts, optical isomers, or salts of optical isomers; or

(4) Sells, distributes, dispenses or otherwise provides to an individual under eighteen years of age without a valid prescription any number of packages of any drug product containing any detectable quantity of pseudoephedrine, its salts, isomers, or salts of optical isomers, or ephedrine, its salts or optical isomers, or salts of optical isomers.

3. Any person who violates the packaging requirements of section 195.418 and is considered the general owner or operator of the outlet where ephedrine, pseudoephedrine, or phenylpropanolamine products are available for sale shall not be penalized if he or she documents that an employee training program was in place to provide the employee who made the unlawful retail sale with information on the state and federal regulations regarding ephedrine, pseudoephedrine, or phenylpropanolamine.

4. The offense of unlawful sale, distribution, or purchase of over-the-counter methamphetamine precursor drugs is a class A misdemeanor.

[195.130.] 579.105. KEEPING OR MAINTAINING A PUBLIC NUISANCE — VIOLATION, PENALTY.. — 1. **[**Any room, building, structure or inhabitable structure as defined in section 569.010 which is used for the illegal use, keeping or selling of controlled substances is a "public nuisance". No person shall keep or maintain such a public nuisance.

2. The attorney general, circuit attorney or prosecuting attorney may, in addition to any criminal prosecutions, prosecute a suit in equity to enjoin the public nuisance. If the court finds that the owner of the room, building, structure or inhabitable structure knew that the premises were being used for the illegal use, keeping or selling of controlled substances, the court may order that the premises shall not be occupied or used for such period as the court may determine, not to exceed one year.

3. All persons, including owners, lessees, officers, agents, inmates or employees, aiding or facilitating such a nuisance may be made defendants in any suit to enjoin the nuisance.

4. It is unlawful for a person to keep or maintain such a public nuisance.**] A person commits the offense of keeping or maintaining a public nuisance if he or she knowingly keeps or maintains:**

(1) Any room, building, structure or inhabitable structure, as defined in section 556.061, which is used for the illegal manufacture, distribution, storage, or sale of any amount of a controlled substance, except thirty-five grams or less of marijuana or thirty-five grams or less of any synthetic cannabinoid; or

(2) Any room, building, structure or inhabitable structure, as defined in section 556.061, where on three or more separate occasions within the period of a year, two or more persons, who were not residents of the room, building, structure, or inhabitable structure, gathered for the principal purpose of unlawfully ingesting, injecting, inhaling or using any amount of a controlled substance, except thirty-five grams or less of marijuana or thirty-five grams or less of any synthetic cannabinoid.

2. In addition to any other criminal prosecutions, the prosecuting attorney or circuit attorney may by information or indictment charge the owner or the occupant, or both the owner and the occupant of the room, building, structure, or inhabitable structure with the **[**crime**] offense** of keeping or maintaining a public nuisance. **[**Keeping or maintaining a public nuisance is a class C felony.**]**

3. The offense of keeping or maintaining a public nuisance is a class E felony.

[5.**] 4.** Upon the conviction of the owner pursuant to **[**subsection 4 of**]** this section, the room, building, structure, or inhabitable structure is subject to the provisions of sections 513.600 to 513.645.

[160.261. DISCIPLINE, WRITTEN POLICY ESTABLISHED BY LOCAL BOARDS OF EDUCATION — CONTENTS — REPORTING REQUIREMENTS — ADDITIONAL RESTRICTIONS FOR CERTAIN SUSPENSIONS — WEAPONS OFFENSE, MANDATORY SUSPENSION OR EXPULSION — NO CIVIL LIABILITY FOR AUTHORIZED PERSONNEL — SPANKING NOT CHILD ABUSE, WHEN — INVESTIGATION PROCEDURE — OFFICIALS FALSIFYING REPORTS, PENALTY. — 1. The local board of education of each school district shall clearly establish a written policy of discipline, including the district's determination on the use of corporal punishment and the procedures in which

punishment will be applied. A written copy of the district's discipline policy and corporal punishment procedures, if applicable, shall be provided to the pupil and parent or legal guardian of every pupil enrolled in the district at the beginning of each school year and also made available in the office of the superintendent of such district, during normal business hours, for public inspection. All employees of the district shall annually receive instruction related to the specific contents of the policy of discipline and any interpretations necessary to implement the provisions of the policy in the course of their duties, including but not limited to approved methods of dealing with acts of school violence, disciplining students with disabilities and instruction in the necessity and requirements for confidentiality.

2. The policy shall require school administrators to report acts of school violence to all teachers at the attendance center and, in addition, to other school district employees with a need to know. For the purposes of this chapter or chapter 167, "need to know" is defined as school personnel who are directly responsible for the student's education or who otherwise interact with the student on a professional basis while acting within the scope of their assigned duties. As used in this section, the phrase "act of school violence" or "violent behavior" means the exertion of physical force by a student with the intent to do serious physical injury as defined in subdivision (6) of section 565.002 to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. The policy shall at a minimum require school administrators to report, as soon as reasonably practical, to the appropriate law enforcement agency any of the following crimes, or any act which if committed by an adult would be one of the following crimes:

(1) First degree murder under section 565.020;

(2) Second degree murder under section 565.021;

(3) Kidnapping **in the first degree** under section 565.110;

(4) First degree assault under section 565.050;

(5) Rape in the first degree under section 566.030;

(6) Sodomy in the first degree under section 566.060;

(7) Burglary in the first degree under section 569.160;

(8) Burglary in the second degree under section 569.170;

(9) Robbery in the first degree under section **[**569.020**]** **570.023**;

(10) **[**Distribution of drugs**]** **Manufacture of a controlled substance** under section **[**195.211**]** **579.055**;

(11) **[**Distribution of drugs to a minor**]** **Delivery of a controlled substance** under section **[**195.212**]** **579.020**;

(12) Arson in the first degree under section 569.040;

(13) Voluntary manslaughter under section 565.023;

(14) Involuntary manslaughter under section 565.024;

(15) Second degree assault under section **[**565.060**]** **565.052**;

(16) Rape in the second degree under section 566.031;

(17) **[**Felonious restraint**]** **Kidnapping in the second degree** under section 565.120;

(18) Property damage in the first degree under section 569.100;

(19) The possession of a weapon under chapter 571;

(20) Child molestation in the first**, second, or third** degree pursuant to section 566.067**, 566.068, or 566.069**;

(21) Sodomy in the second degree pursuant to section 566.061;

(22) Sexual misconduct involving a child pursuant to section 566.083;

(23) Sexual abuse in the first degree pursuant to section 566.100;

(24) Harassment **in the first degree** under section 565.090; or

(25) Stalking **in the first degree** under section 565.225;

committed on school property, including but not limited to actions on any school bus in service on behalf of the district or while involved in school activities. The policy shall require that any portion of a student's individualized education program that is related to demonstrated or potentially violent behavior shall be provided to any teacher and other school district employees who are directly responsible for the student's education or who otherwise interact with the student on an educational basis while acting within the scope of their assigned duties. The policy shall also contain the consequences of failure to obey standards of conduct set by the local board of education, and the importance of the standards to the maintenance of an atmosphere where orderly learning is possible and encouraged.

3. The policy shall provide that any student who is on suspension for any of the offenses listed in subsection 2 of this section or any act of violence or drug-related activity defined by school district policy as a serious violation of school discipline pursuant to subsection 9 of this section shall have as a condition of his or her suspension the requirement that such student is not allowed, while on such suspension, to be within one thousand feet of any school property in the school district where such student attended school or any activity of that district, regardless of whether or not the activity takes place on district property unless:

(1) Such student is under the direct supervision of the student's parent, legal guardian, or custodian and the superintendent or the superintendent's designee has authorized the student to be on school property;

(2) Such student is under the direct supervision of another adult designated by the student's parent, legal guardian, or custodian, in advance, in writing, to the principal of the school which suspended the student and the superintendent or the superintendent's designee has authorized the student to be on school property;

(3) Such student is enrolled in and attending an alternative school that is located within one thousand feet of a public school in the school district where such student attended school; or

(4) Such student resides within one thousand feet of any public school in the school district where such student attended school in which case such student may be on the property of his or her residence without direct adult supervision.

4. Any student who violates the condition of suspension required pursuant to subsection 3 of this section may be subject to expulsion or further suspension pursuant to the provisions of sections 167.161, 167.164, and 167.171. In making this determination consideration shall be given to whether the student poses a threat to the safety of any child or school employee and whether such student's unsupervised presence within one thousand feet of the school is disruptive to the educational process or undermines the effectiveness of the school's disciplinary policy. Removal of any pupil who is a student with a disability is subject to state and federal procedural rights. This section shall not limit a school district's ability to:

(1) Prohibit all students who are suspended from being on school property or attending an activity while on suspension;

(2) Discipline students for off-campus conduct that negatively affects the educational environment to the extent allowed by law.

5. The policy shall provide for a suspension for a period of not less than one year, or expulsion, for a student who is determined to have brought a weapon to school, including but not limited to the school playground or the school parking lot, brought a weapon on a school bus or brought a weapon to a school activity whether on or off of the school property in violation of district policy, except that:

(1) The superintendent or, in a school district with no high school, the principal of the school which such child attends may modify such suspension on a case-by-case basis; and

(2) This section shall not prevent the school district from providing educational services in an alternative setting to a student suspended under the provisions of this section.

6. For the purpose of this section, the term "weapon" shall mean a firearm as defined under 18 U.S.C. 921 and the following items, as defined in section 571.010: a blackjack, a concealable firearm, an explosive weapon, a firearm, a firearm silencer, a gas gun, a knife, knuckles, a machine gun, a projectile weapon, a rifle, a shotgun, a spring gun or a switchblade knife; except that this section shall not be construed to prohibit a school board from adopting a policy to allow a Civil War reenactor to carry a Civil War era weapon on school property for educational purposes so long as the firearm is unloaded. The local board of education shall define weapon in the discipline policy. Such definition shall include the weapons defined in this subsection but may also include other weapons.

7. All school district personnel responsible for the care and supervision of students are authorized to hold every pupil strictly accountable for any disorderly conduct in school or on any property of the school, on any school bus going to or returning from school, during school-sponsored activities, or during intermission or recess periods.

8. Teachers and other authorized district personnel in public schools responsible for the care, supervision, and discipline of schoolchildren, including volunteers selected with reasonable care by the school district, shall not be civilly liable when acting in conformity with the established policies developed by each board, including but not limited to policies of student discipline or when reporting to his or her supervisor or other person as mandated by state law acts of school violence or threatened acts of school violence, within the course and scope of the duties of the teacher, authorized district personnel or volunteer, when such individual is acting in conformity with the established policies developed by the board. Nothing in this section shall be construed to create a new cause of action against such school district, or to relieve the school district from liability for the negligent acts of such persons.

9. Each school board shall define in its discipline policy acts of violence and any other acts that constitute a serious violation of that policy. "Acts of violence" as defined by school boards shall include but not be limited to exertion of physical force by a student with the intent to do serious bodily harm to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. School districts shall for each student enrolled in the school district compile and maintain records of any serious violation of the district's discipline policy. Such records shall be made available to teachers and other school district employees with a need to know while acting within the scope of their assigned duties, and shall be provided as required in section 167.020 to any school district in which the student subsequently attempts to enroll.

10. Spanking, when administered by certificated personnel and in the presence of a witness who is an employee of the school district, or the use of reasonable force to protect persons or property, when administered by personnel of a school district in a reasonable manner in accordance with the local board of education's written policy of discipline, is not abuse within the meaning of chapter 210. The provisions of sections 210.110 to 210.165 notwithstanding, the children's division shall not have jurisdiction over or investigate any report of alleged child abuse arising out of or related to the use of reasonable force to protect persons or property when administered by personnel of a school district or any spanking administered in a reasonable manner by any certificated school personnel in the presence of a witness who is an employee of the school district pursuant to a written policy of discipline established by the board of education of the school district, as long as no allegation of sexual misconduct arises from the spanking or use of force.

11. If a student reports alleged sexual misconduct on the part of a teacher or other school employee to a person employed in a school facility who is required to report such misconduct to the children's division under section 210.115, such person and the superintendent of the school district shall report the allegation to the children's division as set forth in section 210.115. Reports made to the children's division under this subsection shall be investigated by the division in accordance with the provisions of sections 210.145 to 210.153 and shall not be investigated by the school district under subsections 12 to 20 of this section for purposes of determining whether the allegations should or should not be substantiated. The district may investigate the allegations for the purpose of making any decision regarding the employment of the accused employee.

12. Upon receipt of any reports of child abuse by the children's division other than reports provided under subsection 11 of this section, pursuant to sections 210.110 to 210.165 which allegedly involve personnel of a school district, the children's division shall notify the superintendent of schools of the district or, if the person named in the alleged incident is the superintendent of schools, the president of the school board of the school district where the alleged incident occurred.

13. If, after an initial investigation, the superintendent of schools or the president of the school board finds that the report involves an alleged incident of child abuse other than the administration of a spanking by certificated school personnel or the use of reasonable force to protect persons or property when administered by school personnel pursuant to a written policy of discipline or that the report was made for the sole purpose of harassing a public school employee, the superintendent of schools or the president of the school board shall immediately refer the matter back to the children's division and take no further action. In all matters referred back to the children's division, the division shall treat the report in the same manner as other reports of alleged child abuse received by the division.

14. If the report pertains to an alleged incident which arose out of or is related to a spanking administered by certificated personnel or the use of reasonable force to protect persons or property when administered by personnel of a school district pursuant to a written policy of discipline or a report made for the sole purpose of harassing a public school employee, a notification of the reported child abuse shall be sent by the superintendent of schools or the president of the school board to the law enforcement in the county in which the alleged incident occurred.

15. The report shall be jointly investigated by the law enforcement officer and the superintendent of schools or, if the subject of the report is the superintendent of schools, by a law enforcement officer and the president of the school board or such president's designee.

16. The investigation shall begin no later than forty-eight hours after notification from the children's division is received, and shall consist of, but need not be limited to, interviewing and recording statements of the child and the child's parents or guardian within two working days after the start of the investigation, of the school district personnel allegedly involved in the report, and of any witnesses to the alleged incident.

17. The law enforcement officer and the investigating school district personnel shall issue separate reports of their findings and recommendations after the conclusion of the investigation to the school board of the school district within seven days after receiving notice from the children's division.

18. The reports shall contain a statement of conclusion as to whether the report of alleged child abuse is substantiated or is unsubstantiated.

19. The school board shall consider the separate reports referred to in subsection 17 of this section and shall issue its findings and conclusions and the action to be taken, if any, within seven days after receiving the last of the two reports. The findings and conclusions shall be made in substantially the following form:

(1) The report of the alleged child abuse is unsubstantiated. The law enforcement officer and the investigating school board personnel agree that there was not a preponderance of evidence to substantiate that abuse occurred;

(2) The report of the alleged child abuse is substantiated. The law enforcement officer and the investigating school district personnel agree that the preponderance of evidence is sufficient to support a finding that the alleged incident of child abuse did occur;

(3) The issue involved in the alleged incident of child abuse is unresolved. The law enforcement officer and the investigating school personnel are unable to agree on their findings and conclusions on the alleged incident.

20. The findings and conclusions of the school board under subsection 19 of this section shall be sent to the children's division. If the findings and conclusions of the school board are that the report of the alleged child abuse is unsubstantiated, the investigation shall be terminated, the case closed, and no record shall be entered in the children's division central registry. If the findings and conclusions of the school board are that the report of the alleged child abuse is substantiated, the children's division shall report the incident to the prosecuting attorney of the appropriate county along with the findings and conclusions of the school district and shall include the information in the division's central registry. If the findings and conclusions of the school board are that the issue involved in the alleged incident of child abuse is unresolved, the children's division shall report the incident to the prosecuting attorney of the appropriate county along with the findings and conclusions of the school board, however, the incident and the names of the parties allegedly involved shall not be entered into the central registry of the children's division unless and until the alleged child abuse is substantiated by a court of competent jurisdiction.

21. Any superintendent of schools, president of a school board or such person's designee or law enforcement officer who knowingly falsifies any report of any matter pursuant to this section or who knowingly withholds any information relative to any investigation or report pursuant to this section is guilty of a class A misdemeanor.

22. In order to ensure the safety of all students, should a student be expelled for bringing a weapon to school, violent behavior, or for an act of school violence, that student shall not, for the purposes of the accreditation process of the Missouri school improvement plan, be considered a dropout or be included in the calculation of that district's educational persistence ratio.**]**

[167.115. JUVENILE OFFICER OR OTHER LAW ENFORCEMENT AUTHORITY TO REPORT TO SUPERINTENDENT, WHEN, HOW — SUPERINTENDENT TO REPORT CERTAIN ACTS, TO WHOM — NOTICE OF SUSPENSION OR EXPULSION TO COURT — SUPERINTENDENT TO CONSULT. — 1. Notwithstanding any provision of chapter 211 or chapter 610 to the contrary, the juvenile officer, sheriff, chief of police or other appropriate law enforcement authority shall, as soon as reasonably practical, notify the superintendent, or the superintendent's designee, of the school district in which the pupil is enrolled when a petition is filed pursuant to subsection 1 of section 211.031 alleging that the pupil has committed one of the following acts:

(1) First degree murder under section 565.020;

(2) Second degree murder under section 565.021;

(3) Kidnapping under section 565.110 **as it existed prior to January 1, 2017, or kidnapping in the first degree under section 565.110**;

(4) First degree assault under section 565.050;

(5) Forcible rape under section 566.030 as it existed prior to August 28, 2013, or rape in the first degree under section 566.030;

(6) Forcible sodomy under section 566.060 as it existed prior to August 28, 2013, or sodomy in the first degree under section 566.060;

(7) Burglary in the first degree under section 569.160;

(8) Robbery in the first degree under section 569.020 **as it existed prior to January 1, 2017, or robbery in the first degree under section 570.023**;

(9) Distribution of drugs under section 195.211 **as it existed prior to January 1, 2017, or manufacture of a controlled substance under section 579.055**;

(10) Distribution of drugs to a minor under section 195.212 **as it existed prior to January 1, 2017, or delivery of a controlled substance under section 579.020**;

(11) Arson in the first degree under section 569.040;

(12) Voluntary manslaughter under section 565.023;

(13) Involuntary manslaughter under section 565.024;

(14) Second degree assault under section 565.060 **as it existed prior to January 1, 2017, or second degree assault under section 565.052**;

(15) Sexual assault under section 566.040 as it existed prior to August 28, 2013, or rape in the second degree under section 566.031;

(16) Felonious restraint under section 565.120 **as it existed prior to January 1, 2017, or kidnapping in the second degree for an act committed after December 31, 2016**;

(17) Property damage in the first degree under section 569.100;

(18) The possession of a weapon under chapter 571;

(19) Child molestation in the first degree pursuant to section 566.067 **as it existed prior to January 1, 2017**;

(20) **Child molestation in the first, second, or third degree pursuant to sections 566.067, 566.068, or 566.069 for an act committed after December 31, 2016;**

(21) Deviate sexual assault pursuant to section 566.070 as it existed prior to August 28, 2013, or sodomy in the second degree under section 566.061;

[(21)**]** **(22)** Sexual misconduct involving a child pursuant to section 566.083; or

[(22)**]** **(23)** Sexual abuse pursuant to section 566.100 as it existed prior to August 28, 2013, or sexual abuse in the first degree under section 566.100.

2. The notification shall be made orally or in writing, in a timely manner, no later than five days following the filing of the petition. If the report is made orally, written notice shall follow in a timely manner. The notification shall include a complete description of the conduct the pupil is alleged to have committed and the dates the conduct occurred but shall not include the name of any victim. Upon the disposition of any such case, the juvenile office or prosecuting attorney or their designee shall send a second notification to the superintendent providing the disposition of the case, including a brief summary of the relevant finding of facts, no later than five days following the disposition of the case.

3. The superintendent or the designee of the superintendent shall report such information to teachers and other school district employees with a need to know while acting within the scope of their assigned duties. Any information received by school district officials pursuant to this section shall be received in confidence and used for the limited purpose of assuring that good order and discipline is maintained in the school. This information shall not be used as the sole basis for not providing educational services to a public school pupil.

4. The superintendent shall notify the appropriate division of the juvenile or family court upon any pupil's suspension for more than ten days or expulsion of any pupil that the school district is aware is under the jurisdiction of the court.

5. The superintendent or the superintendent's designee may be called to serve in a consultant capacity at any dispositional proceedings pursuant to section 211.031 which may involve reference to a pupil's academic treatment plan.

6. Upon the transfer of any pupil described in this section to any other school district in this state, the superintendent or the superintendent's designee shall forward the written notification given to the superintendent pursuant to subsection 2 of this section to the superintendent of the new school district in which the pupil has enrolled. Such written notification shall be required again in the event of any subsequent transfer by the pupil.

7. As used in this section, the terms "school" and "school district" shall include any charter, private or parochial school or school district, and the term "superintendent" shall include the principal or equivalent chief school officer in the cases of charter, private or parochial schools.

8. The superintendent or the designee of the superintendent or other school employee who, in good faith, reports information in accordance with the terms of this section and section 160.261 shall not be civilly liable for providing such information.**]**

[167.171. SUMMARY SUSPENSION OF PUPIL — APPEAL — GROUNDS FOR SUSPENSION — PROCEDURE — CONFERENCE REQUIRED, WHEN — STATEWIDE SUSPENSION, WHEN. — 1. The school board in any district, by general rule and for the causes provided in section 167.161, may authorize the summary suspension of pupils by principals of schools for a period not to exceed ten school days and by the superintendent of schools for a period not to exceed one hundred and eighty school days. In case of a suspension by the superintendent for more than ten school days, the pupil, the pupil's parents or others having such pupil's custodial care may appeal the decision of the superintendent to the board or to a committee of board members appointed by the president of the board which shall have full authority to act in lieu of the board. Any suspension by a principal shall be immediately reported to the superintendent who may revoke the suspension at any time. In event of an appeal to the board, the superintendent shall promptly transmit to it a full report in writing of the facts relating to the suspension, the action taken by the superintendent and the reasons therefor and the board, upon request, shall grant a hearing to the appealing party to be conducted as provided in section 167.161.

2. No pupil shall be suspended unless:

(1) The pupil shall be given oral or written notice of the charges against such pupil;

(2) If the pupil denies the charges, such pupil shall be given an oral or written explanation of the facts which form the basis of the proposed suspension;

(3) The pupil shall be given an opportunity to present such pupil's version of the incident; and

(4) In the event of a suspension for more than ten school days, where the pupil gives notice that such pupil wishes to appeal the suspension to the board, the suspension shall be stayed until the board renders its decision, unless in the judgment of the superintendent of schools, or of the district superintendent, the pupil's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, in which case the pupil may be immediately removed from school, and the notice and hearing shall follow as soon as practicable.

3. No school board shall readmit or enroll a pupil properly suspended for more than ten consecutive school days for an act of school violence as defined in subsection 2 of section 160.261 regardless of whether or not such act was committed at a public school or at a private school in this state, provided that such act shall have resulted in the suspension or expulsion of such pupil in the case of a private school, or otherwise permit such pupil to attend school without first holding a conference to review the conduct that resulted in the expulsion or suspension and any remedial actions needed to prevent any future occurrences of such or related conduct. The conference shall

include the appropriate school officials including any teacher employed in that school or district directly involved with the conduct that resulted in the suspension or expulsion, the pupil, the parent or guardian of the pupil or any agency having legal jurisdiction, care, custody or control of the pupil. The school board shall notify in writing the parents or guardians and all other parties of the time, place, and agenda of any such conference. Failure of any party to attend this conference shall not preclude holding the conference. Notwithstanding any provision of this subsection to the contrary, no pupil shall be readmitted or enrolled to a regular program of instruction if:

(1) Such pupil has been convicted of; or

(2) An indictment or information has been filed alleging that the pupil has committed one of the acts enumerated in subdivision (4) of this subsection to which there has been no final judgment; or

(3) A petition has been filed pursuant to section 211.091 alleging that the pupil has committed one of the acts enumerated in subdivision (4) of this subsection to which there has been no final judgment; or

(4) The pupil has been adjudicated to have committed an act which if committed by an adult would be one of the following:

(a) First degree murder under section 565.020;

(b) Second degree murder under section 565.021;

(c) First degree assault under section 565.050;

(d) Forcible rape under section 566.030 as it existed prior to August 28, 2013, or rape in the first degree under section 566.030;

(e) Forcible sodomy under section 566.060 as it existed prior to August 28, 2013, or sodomy in the first degree under section 566.060;

(f) Statutory rape under section 566.032;

(g) Statutory sodomy under section 566.062;

(h) Robbery in the first degree under section 569.020 **as it existed prior to January 1, 2017, or robbery in the first degree under section 570.023**;

(i) Distribution of drugs to a minor under section 195.212;

(j) Arson in the first degree under section 569.040;

(k) Kidnapping **or kidnapping in the first degree**, when classified as a class A felony under section 565.110.

Nothing in this subsection shall prohibit the readmittance or enrollment of any pupil if a petition has been dismissed, or when a pupil has been acquitted or adjudicated not to have committed any of the above acts. This subsection shall not apply to a student with a disability, as identified under state eligibility criteria, who is convicted or adjudicated guilty as a result of an action related to the student's disability. Nothing in this subsection shall be construed to prohibit a school district which provides an alternative education program from enrolling a pupil in an alternative education program if the district determines such enrollment is appropriate.

4. If a pupil is attempting to enroll in a school district during a suspension or expulsion from another in-state or out-of-state school district including a private, charter or parochial school or school district, a conference with the superintendent or the superintendent's designee may be held at the request of the parent, court-appointed legal guardian, someone acting as a parent as defined by rule in the case of a special education student, or the pupil to consider if the conduct of the pupil would have resulted in a suspension or expulsion in the district in which the pupil is enrolling. Upon a determination by the superintendent or the superintendent's designee that such conduct would have resulted in a suspension or expulsion in the district in which the pupil is enrolling or attempting to enroll, the school district may make such suspension

or expulsion from another school or district effective in the district in which the pupil is enrolling or attempting to enroll. Upon a determination by the superintendent or the superintendent's designee that such conduct would not have resulted in a suspension or expulsion in the district in which the student is enrolling or attempting to enroll, the school district shall not make such suspension or expulsion effective in its district in which the student is enrolling or attempting to enroll.**]**

[188.030. ABORTION OF VIABLE UNBORN CHILD PROHIBITED, EXCEPTIONS — PHYSICIAN DUTIES — VIOLATIONS, PENALTY — SEVERABILITY — RIGHT OF INTERVENTION, WHEN. — 1. Except in the case of a medical emergency, no abortion of a viable unborn child shall be performed or induced unless the abortion is necessary to preserve the life of the pregnant woman whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself, or when continuation of the pregnancy will create a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman. For purposes of this section, "major bodily function" includes, but is not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

2. Except in the case of a medical emergency:

(1) Prior to performing or inducing an abortion upon a woman, the physician shall determine the gestational age of the unborn child in a manner consistent with accepted obstetrical and neonatal practices and standards. In making such determination, the physician shall make such inquiries of the pregnant woman and perform or cause to be performed such medical examinations, imaging studies, and tests as a reasonably prudent physician, knowledgeable about the medical facts and conditions of both the woman and the unborn child involved, would consider necessary to perform and consider in making an accurate diagnosis with respect to gestational age;

(2) If the physician determines that the gestational age of the unborn child is twenty weeks or more, prior to performing or inducing an abortion upon the woman, the physician shall determine if the unborn child is viable by using and exercising that degree of care, skill, and proficiency commonly exercised by a skillful, careful, and prudent physician. In making this determination of viability, the physician shall perform or cause to be performed such medical examinations and tests as are necessary to make a finding of the gestational age, weight, and lung maturity of the unborn child and shall enter such findings and determination of viability in the medical record of the woman;

(3) If the physician determines that the gestational age of the unborn child is twenty weeks or more, and further determines that the unborn child is not viable and performs or induces an abortion upon the woman, the physician shall report such findings and determinations and the reasons for such determinations to the health care facility in which the abortion is performed and to the state board of registration for the healing arts, and shall enter such findings and determinations in the medical records of the woman and in the individual abortion report submitted to the department under section 188.052;

(4) (a) If the physician determines that the unborn child is viable, the physician shall not perform or induce an abortion upon the woman unless the abortion is necessary to preserve the life of the pregnant woman or that a continuation of the pregnancy will create a serious risk of substantial and irreversible physical impairment of a major bodily function of the woman.

(b) Before a physician may proceed with performing or inducing an abortion upon a woman when it has been determined that the unborn child is viable, the physician shall first certify in writing the medical threat posed to the life of the pregnant woman, or the medical reasons that continuation of the pregnancy would cause a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman. Upon completion of the abortion, the physician shall report the reasons and determinations for the abortion of a viable unborn child to the health care facility in which the abortion is performed and to the state board of registration for the healing arts, and shall enter such findings and determinations in the medical record of the woman and in the individual abortion report submitted to the department under section 188.052.

(c) Before a physician may proceed with performing or inducing an abortion upon a woman when it has been determined that the unborn child is viable, the physician who is to perform the abortion shall obtain the agreement of a second physician with knowledge of accepted obstetrical and neonatal practices and standards who shall concur that the abortion is necessary to preserve the life of the pregnant woman, or that continuation of the pregnancy would cause a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman. This second physician shall also report such reasons and determinations to the health care facility in which the abortion is to be performed and to the state board of registration for the healing arts, and shall enter such findings and determinations in the medical record of the woman and the individual abortion report submitted to the department under section 188.052. The second physician shall not have any legal or financial affiliation or relationship with the physician performing or inducing the abortion, except that such prohibition shall not apply to physicians whose legal or financial affiliation or relationship is a result of being employed by or having staff privileges at the same hospital as the term "hospital" is defined in section 197.020.

(d) Any physician who performs or induces an abortion upon a woman when it has been determined that the unborn child is viable shall utilize the available method or technique of abortion most likely to preserve the life or health of the unborn child. In cases where the method or technique of abortion most likely to preserve the life or health of the unborn child would present a greater risk to the life or health of the woman than another legally permitted and available method or technique, the physician may utilize such other method or technique. In all cases where the physician performs an abortion upon a viable unborn child, the physician shall certify in writing the available method or techniques considered and the reasons for choosing the method or technique employed.

(e) No physician shall perform or induce an abortion upon a woman when it has been determined that the unborn child is viable unless there is in attendance a physician other than the physician performing or inducing the abortion who shall take control of and provide immediate medical care for a child born as a result of the abortion. During the performance of the abortion, the physician performing it, and subsequent to the abortion, the physician required to be in attendance, shall take all reasonable steps in keeping with good medical practice, consistent with the procedure used, to preserve the life or health of the viable unborn child; provided that it does not pose an increased risk to the life of the woman or does not pose an increased risk of substantial and irreversible physical impairment of a major bodily function of the woman.

3. Any person who knowingly performs or induces an abortion of an unborn child in violation of the provisions of this section is guilty of a class [C] **D** felony, and, upon a finding of guilt or plea of guilty, shall be imprisoned for a term of not less than one year, and, notwithstanding the provisions of section 560.011, shall be fined not less than ten thousand nor more than fifty thousand dollars.

4. Any physician who pleads guilty to or is found guilty of performing or inducing an abortion of an unborn child in violation of this section shall be subject to suspension or revocation of his or her license to practice medicine in the state of Missouri by the state board of registration for the healing arts under the provisions of sections 334.100 and 334.103.

5. Any hospital licensed in the state of Missouri that knowingly allows an abortion of an unborn child to be performed or induced in violation of this section may be subject to suspension or revocation of its license under the provisions of section 197.070.

6. Any ambulatory surgical center licensed in the state of Missouri that knowingly allows an abortion of an unborn child to be performed or induced in violation of this section may be subject to suspension or revocation of its license under the provisions of section 197.220.

7. A woman upon whom an abortion is performed or induced in violation of this section shall not be prosecuted for a conspiracy to violate the provisions of this section.

8. Nothing in this section shall be construed as creating or recognizing a right to abortion, nor is it the intention of this section to make lawful any abortion that is currently unlawful.

9. It is the intent of the legislature that this section be severable as noted in section 1.140. In the event that any section, subsection, subdivision, paragraph, sentence, or clause of this section be declared invalid under the Constitution of the United States or the Constitution of the State of Missouri, it is the intent of the legislature that the remaining provisions of this section remain in force and effect as far as capable of being carried into execution as intended by the legislature.

10. The general assembly may, by concurrent resolution, appoint one or more of its members who sponsored or co-sponsored this act in his or her official capacity to intervene as a matter of right in any case in which the constitutionality of this law is challenged.**]**

[[660.315.] 197.1036. EMPLOYEE DISQUALIFICATION LIST, NOTIFICATION OF PLACEMENT, CONTENTS — CHALLENGE OF ALLEGATION, PROCEDURE — HEARING, PROCEDURE — APPEAL — REMOVAL OF NAME FROM LIST — LIST PROVIDED TO WHOM — PROHIBITION OF EMPLOYMENT. — 1. After an investigation and a determination has been made to place a person's name on the employee disqualification list, that person shall be notified in writing mailed to his or her last known address that:

(1) An allegation has been made against the person, the substance of the allegation and that an investigation has been conducted which tends to substantiate the allegation;

(2) The person's name will be included in the employee disqualification list of the department;

(3) The consequences of being so listed including the length of time to be listed; and

(4) The person's rights and the procedure to challenge the allegation.

2. If no reply has been received within thirty days of mailing the notice, the department may include the name of such person on its list. The length of time the person's name shall appear on the employee disqualification list shall be determined by the director or the director's designee, based upon the criteria contained in subsection 9 of this section.

3. If the person so notified wishes to challenge the allegation, such person may file an application for a hearing with the department. The department shall grant the application within thirty days after receipt by the department and set the matter for

hearing, or the department shall notify the applicant that, after review, the allegation has been held to be unfounded and the applicant's name will not be listed.

4. If a person's name is included on the employee disqualification list without the department providing notice as required under subsection 1 of this section, such person may file a request with the department for removal of the name or for a hearing. Within thirty days after receipt of the request, the department shall either remove the name from the list or grant a hearing and set a date therefor.

5. Any hearing shall be conducted in the county of the person's residence by the director of the department or the director's designee. The provisions of chapter 536 for a contested case except those provisions or amendments which are in conflict with this section shall apply to and govern the proceedings contained in this section and the rights and duties of the parties involved. The person appealing such an action shall be entitled to present evidence, pursuant to the provisions of chapter 536, relevant to the allegations.

6. Upon the record made at the hearing, the director of the department or the director's designee shall determine all questions presented and shall determine whether the person shall be listed on the employee disqualification list. The director of the department or the director's designee shall clearly state the reasons for his or her decision and shall include a statement of findings of fact and conclusions of law pertinent to the questions in issue.

7. A person aggrieved by the decision following the hearing shall be informed of his or her right to seek judicial review as provided under chapter 536. If the person fails to appeal the director's findings, those findings shall constitute a final determination that the person shall be placed on the employee disqualification list.

8. A decision by the director shall be inadmissible in any civil action brought against a facility or the in-home services provider agency and arising out of the facts and circumstances which brought about the employment disqualification proceeding, unless the civil action is brought against the facility or the in-home services provider agency by the department of health and senior services or one of its divisions.

9. The length of time the person's name shall appear on the employee disqualification list shall be determined by the director of the department of health and senior services or the director's designee, based upon the following:

(1) Whether the person acted recklessly or knowingly, as defined in chapter 562;

(2) The degree of the physical, sexual, or emotional injury or harm; or the degree of the imminent danger to the health, safety or welfare of a resident or in-home services client;

(3) The degree of misappropriation of the property or funds, or falsification of any documents for service delivery of an in-home services client;

(4) Whether the person has previously been listed on the employee disqualification list;

(5) Any mitigating circumstances;

(6) Any aggravating circumstances; and

(7) Whether alternative sanctions resulting in conditions of continued employment are appropriate in lieu of placing a person's name on the employee disqualification list. Such conditions of employment may include, but are not limited to, additional training and employee counseling. Conditional employment shall terminate upon the expiration of the designated length of time and the person's submitting documentation which fulfills the department of health and senior services' requirements.

10. The removal of any person's name from the list under this section shall not prevent the director from keeping records of all acts finally determined to have occurred under this section.

11. The department shall provide the list maintained pursuant to this section to other state departments upon request and to any person, corporation, organization, or association who:

(1) Is licensed as an operator under chapter 198;

(2) Provides in-home services under contract with the department;

(3) Employs nurses and nursing assistants for temporary or intermittent placement in health care facilities;

(4) Is approved by the department to issue certificates for nursing assistants training;

(5) Is an entity licensed under **this** chapter **[**197**]**;

(6) Is a recognized school of nursing, medicine, or other health profession for the purpose of determining whether students scheduled to participate in clinical rotations with entities described in subdivision (1), (2), or (5) of this subsection are included in the employee disqualification list; or

(7) Is a consumer reporting agency regulated by the federal Fair Credit Reporting Act that conducts employee background checks on behalf of entities listed in subdivisions (1), (2), (5), or (6) of this subsection. Such a consumer reporting agency shall conduct the employee disqualification list check only upon the initiative or request of an entity described in subdivisions (1), (2), (5), or (6) of this subsection when the entity is fulfilling its duties required under this section. The information shall be disclosed only to the requesting entity. The department shall inform any person listed above who inquires of the department whether or not a particular name is on the list. The department may require that the request be made in writing. No person, corporation, organization, or association who is entitled to access the employee disqualification list may disclose the information to any person, corporation, organization, or association who is not entitled to access the list. Any person, corporation, organization, or association who is entitled to access the employee disqualification list who discloses the information to any person, corporation, organization, or association who is not entitled to access the list shall be guilty of an infraction.

12. No person, corporation, organization, or association who received the employee disqualification list under subdivisions (1) to (7) of subsection 11 of this section shall knowingly employ any person who is on the employee disqualification list. Any person, corporation, organization, or association who received the employee disqualification list under subdivisions (1) to (7) of subsection 11 of this section, or any person responsible for providing health care service, who declines to employ or terminates a person whose name is listed in this section shall be immune from suit by that person or anyone else acting for or in behalf of that person for the failure to employ or for the termination of the person whose name is listed on the employee disqualification list.

13. Any employer or vendor as defined in sections 197.250, 197.400, 198.006, 208.900, or 660.250 required to deny employment to an applicant or to discharge an employee, provisional or otherwise, as a result of information obtained through any portion of the background screening and employment eligibility determination process under section 210.903, or subsequent, periodic screenings, shall not be liable in any action brought by the applicant or employee relating to discharge where the employer is required by law to terminate the employee, provisional or otherwise, and shall not be charged for unemployment insurance benefits based on wages paid to the employee for work prior to the date of discharge, pursuant to section 288.100, if the employer terminated the employee because the employee:

(1) Has been found guilty, pled guilty or nolo contendere in this state or any other state of a crime as listed in subsection 6 of section **[**660.317**]** **197.1038**;

(2) Was placed on the employee disqualification list under this section after the date of hire;

(3) Was placed on the employee disqualification registry maintained by the department of mental health after the date of hire;

(4) Has a disqualifying finding under this section, section **[**660.317**]** **197.1038**, or is on any of the background check lists in the family care safety registry under sections 210.900 to 210.936; or

(5) Was denied a good cause waiver as provided for in subsection 10 of section **[**660.317**]** **197.1038**.

14. Any person who has been listed on the employee disqualification list may request that the director remove his or her name from the employee disqualification list. The request shall be written and may not be made more than once every twelve months. The request will be granted by the director upon a clear showing, by written submission only, that the person will not commit additional acts of abuse, neglect, misappropriation of the property or funds, or the falsification of any documents of service delivery to an in-home services client. The director may make conditional the removal of a person's name from the list on any terms that the director deems appropriate, and failure to comply with such terms may result in the person's name being relisted. The director's determination of whether to remove the person's name from the list is not subject to appeal.**]**

[210.117. CHILD NOT REUNITED WITH PARENTS OR PLACED IN A HOME, WHEN. — 1. A child taken into the custody of the state shall not be reunited with a parent or placed in a home in which the parent or any person residing in the home has been found guilty of**[**, or pled guilty to,**]** any of the following offenses when a child was the victim:

(1) A felony violation of section 566.030, **566.031,** 566.032, **[**566.040,**]** 566.060, **566.061,** 566.062, 566.064, 566.067, 566.068, **[**566.070,**]** **566.069, 566.071,** 566.083, **[**566.090,**]** 566.100, **566.101,** 566.111, 566.151, 566.203, 566.206, 566.209, 566.212, or 566.215;

(2) A violation of section 568.020;

(3) **[**A violation of subdivision (2) of subsection 1 of section 568.060**]** **Abuse of a child under section 568.060 when such abuse is sexual in nature**;

(4) A violation of section 568.065;

(5) A violation of section **[**568.080**]** **573.200**;

(6) A violation of section **[**568.090**]** **573.205**; or

(7) A violation of section 568.175**;**

(8) A violation of section 566.040, 566.070, or 566.090 as such sections existed prior to August 28, 2013; or

(9) A violation of section 568.080 or 568.090 as such sections existed prior to January 1, 2017.

2. For all other violations of offenses in chapters 566 and 568 not specifically listed in subsection 1 of this section or for a violation of an offense committed in another state when a child is the victim that would be a violation of chapter 566 or 568, if committed in Missouri, the division may exercise its discretion regarding the placement of a child taken into the custody of the state in which a parent or any person residing in the home has been found guilty of**[**, or pled guilty to,**]** any such offense.

3. In any case where the children's division determines based on a substantiated report of child abuse that a child has abused another child, the abusing child shall be prohibited from returning to or residing in any residence, facility, or school within one thousand feet of the residence of the abused child or any child care facility or school that the abused child attends, unless and until a court of competent jurisdiction

determines that the alleged abuse did not occur or the abused child reaches the age of eighteen, whichever earlier occurs. The provisions of this subsection shall not apply when the abusing child and the abused child are siblings or children living in the same home.**]**

[211.038. CHILDREN NOT TO BE REUNITED WITH PARENTS OR PLACED IN A HOME, WHEN — DISCRETION TO RETURN, WHEN. — 1. A child under the jurisdiction of the juvenile court shall not be reunited with a parent or placed in a home in which the parent or any person residing in the home has been found guilty of[, or pled guilty to,**]** any of the following offenses when a child was the victim:

(1) A felony violation of section 566.030, **566.031,** 566.032, **[**566.040,**]** 566.060, **566.061,** 566.062, 566.064, 566.067, 566.068, **[**566.070,**] 566.069, 566.071,** 566.083, **[**566.090,**]** 566.100, **566.101,** 566.111, 566.151, 566.203, 566.206, 566.209, 566.212, or 566.215;

(2) A violation of section 568.020;

(3) **[**A violation of subdivision (2) of subsection 1 of section 568.060**] Abuse of a child under section 568.060 when such abuse is sexual in nature**;

(4) A violation of section 568.065;

(5) A violation of section **[**568.080**] 573.200**;

(6) A violation of section **[**568.090**] 573.205**; or

(7) A violation of section 568.175**;**

(8) A violation of section 566.040, 566.070, or 566.090 as such sections existed prior to August 28, 2013; or

(9) A violation of section 568.080 or 568.090 as such sections existed prior to January 1, 2017.

2. For all other violations of offenses in chapters 566 and 568 not specifically listed in subsection 1 of this section or for a violation of an offense committed in another state when a child is the victim that would be a violation of chapter 566 or 568 if committed in Missouri, the juvenile court may exercise its discretion regarding the placement of a child under the jurisdiction of the juvenile court in a home in which a parent or any person residing in the home has been found guilty of, or pled guilty to, any such offense.

3. If the juvenile court determines that a child has abused another child, such abusing child shall be prohibited from returning to or residing in any residence located within one thousand feet of the residence of the abused child, or any child care facility or school that the abused child attends, until the abused child reaches eighteen years of age. The prohibitions of this subsection shall not apply where the alleged abuse occurred between siblings or children living in the same home.**]**

[217.010. DEFINITIONS. — As used in this chapter and chapter 558, unless the context clearly indicates otherwise, the following terms shall mean:

(1) "Administrative segregation unit", a cell for the segregation of offenders from the general population of a facility for relatively extensive periods of time;

(2) "Board", the board of probation and parole;

(3) "Chief administrative officer", the institutional head of any correctional facility or his designee;

(4) "Correctional center", any premises or institution where incarceration, evaluation, care, treatment, or rehabilitation is provided to persons who are under the department's authority;

(5) "Department", the department of corrections of the state of Missouri;

(6) "Director", the director of the department of corrections or his designee;

(7) "Disciplinary segregation", a cell for the segregation of offenders from the general population of a correctional center because the offender has been found to have committed a violation of a division or facility rule and other available means are inadequate to regulate the offender's behavior;

(8) "Division", a statutorily created agency within the department or an agency created by the departmental organizational plan;

(9) "Division director", the director of a division of the department or his designee;

(10) "Local volunteer community board", a board of qualified local community volunteers selected by the court for the purpose of working in partnership with the court and the department of corrections in a reparative probation program;

(11) "Nonviolent offender", any offender who is convicted of a crime other than murder in the first or second degree, involuntary manslaughter, kidnapping, **kidnapping in the first degree,** rape in the first degree, forcible rape, sodomy in the first degree, forcible sodomy, robbery in the first degree or assault in the first degree;

(12) "Offender", a person under supervision or an inmate in the custody of the department;

(13) "Probation", a procedure under which a defendant found guilty of a crime upon verdict or plea is released by the court without imprisonment, subject to conditions imposed by the court and subject to the supervision of the board;

(14) "Volunteer", any person who, of his own free will, performs any assigned duties for the department or its divisions with no monetary or material compensation.**]**

[217.703. EARNED COMPLIANCE CREDITS AWARDED, WHEN. — 1. The division of probation and parole shall award earned compliance credits to any offender who is:

(1) Not subject to lifetime supervision under sections 217.735 and 559.106 or otherwise found to be ineligible to earn credits by a court pursuant to subsection 2 of this section;

(2) On probation, parole, or conditional release for an offense listed in chapter [195**] 579, or an offense previously listed in chapter 195,** or for a class **[**C or**]** D **or E** felony, excluding the offenses of **[**aggravated**]** stalking **in the first degree**, rape in the second degree, sexual assault, sodomy in the second degree, deviate sexual assault, assault in the second degree under subdivision (2) of subsection 1 of section **[**565.060**] 565.052**, sexual misconduct involving a child, endangering the welfare of a child in the first degree under subdivision (2) of subsection 1 of section 568.045, incest, invasion of privacy, **[**and**]** abuse of a child, **and any offense of aggravated stalking or assault in the second degree under subdivision (2) of subsection 1 of section 565.060 as such offenses existed prior to January 1, 2017**;

(3) Supervised by the board; and

(4) In compliance with the conditions of supervision imposed by the sentencing court or board.

2. If an offender was placed on probation, parole, or conditional release for an offense of:

(1) Involuntary manslaughter in the first degree;

(2) Involuntary manslaughter in the second degree;

(3) Assault in the second degree except under subdivision (2) of subsection 1 of section **[**565.060**] 565.052 or section 565.060 as it existed prior to January 1, 2017**;

(4) Domestic assault in the second degree;

(5) Assault **[**of a law enforcement officer in the second**] in the third** degree **when the victim is a special victim or assault of a law enforcement officer in the second degree as it existed prior to January 1, 2017**;

(6) Statutory rape in the second degree;

(7) Statutory sodomy in the second degree;

(8) Endangering the welfare of a child in the first degree under subdivision (1) of subsection 1 of section 568.045; or

(9) Any case in which the defendant is found guilty of a felony offense under chapter 571, the sentencing court may, upon its own motion or a motion of the prosecuting or circuit attorney, make a finding that the offender is ineligible to earn compliance credits because the nature and circumstances of the offense or the history and character of the offender indicate that a longer term of probation, parole, or conditional release is necessary for the protection of the public or the guidance of the offender. The motion may be made any time prior to the first month in which the person may earn compliance credits under this section. The offender's ability to earn credits shall be suspended until the court or board makes its finding. If the court or board finds that the offender is eligible for earned compliance credits, the credits shall begin to accrue on the first day of the next calendar month following the issuance of the decision.

3. Earned compliance credits shall reduce the term of probation, parole, or conditional release by thirty days for each full calendar month of compliance with the terms of supervision. Credits shall begin to accrue for eligible offenders after the first full calendar month of supervision or on October 1, 2012, if the offender began a term of probation, parole, or conditional release before September 1, 2012.

4. For the purposes of this section, the term "compliance" shall mean the absence of an initial violation report submitted by a probation or parole officer during a calendar month, or a motion to revoke or motion to suspend filed by a prosecuting or circuit attorney, against the offender.

5. Credits shall not accrue during any calendar month in which a violation report has been submitted or a motion to revoke or motion to suspend has been filed, and shall be suspended pending the outcome of a hearing, if a hearing is held. If no hearing is held or the court or board finds that the violation did not occur, then the offender shall be deemed to be in compliance and shall begin earning credits on the first day of the next calendar month following the month in which the report was submitted or the motion was filed. All earned credits shall be rescinded if the court or board revokes the probation or parole or the court places the offender in a department program under subsection 4 of section 559.036. Earned credits shall continue to be suspended for a period of time during which the court or board has suspended the term of probation, parole, or release, and shall begin to accrue on the first day of the next calendar month following the lifting of the suspension.

6. Offenders who are deemed by the division to be absconders shall not earn credits. For purposes of this subsection, "absconder" shall mean an offender under supervision who has left such offender's place of residency without the permission of the offender's supervising officer for the purpose of avoiding supervision. An offender shall no longer be deemed an absconder when such offender is available for active supervision.

7. Notwithstanding subsection 2 of section 217.730 to the contrary, once the combination of time served in custody, if applicable, time served on probation, parole, or conditional release, and earned compliance credits satisfy the total term of probation, parole, or conditional release, the board or sentencing court shall order final discharge of the offender, so long as the offender has completed at least two years of his or her probation or parole, which shall include any time served in custody under section 217.718 and sections 559.036 and 559.115.

8. The award or rescission of any credits earned under this section shall not be subject to appeal or any motion for postconviction relief.

9. At least twice a year, the division shall calculate the number of months the offender has remaining on his or her term of probation, parole, or conditional release, taking into consideration any earned compliance credits, and notify the offender of the length of the remaining term.

10. No less than sixty days before the date of final discharge, the division shall notify the sentencing court, the board, and, for probation cases, the circuit or prosecuting attorney of the impending discharge. If the sentencing court, the board, or the circuit or prosecuting attorney upon receiving such notice does not take any action under subsection 5 of this section, the offender shall be discharged under subsection 7 of this section.**]**

[260.211. DEMOLITION WASTE, CRIMINAL DISPOSITION OF — PENALTIES — CONSPIRACY. — 1. A person commits the offense of criminal disposition of demolition waste if he purposely or knowingly disposes of or causes the disposal of more than two thousand pounds or four hundred cubic feet of such waste on property in this state other than in a solid waste processing facility or solid waste disposal area having a permit as required by section 260.205; provided that, this subsection shall not prohibit the use or require a solid waste permit for the use of solid wastes in normal farming operations or in the processing or manufacturing of other products in a manner that will not create a public nuisance or adversely affect public health and shall not prohibit the disposal of or require a solid waste permit for the disposal by an individual of solid wastes resulting from his or her own residential activities on property owned or lawfully occupied by him or her when such wastes do not thereby create a public nuisance or adversely affect the public health. Demolition waste shall not include clean fill or vegetation. Criminal disposition of demolition waste is a class [D**] E** felony. In addition to other penalties prescribed by law, a person convicted of criminal disposition of demolition waste is subject to a fine not to exceed twenty thousand dollars, except as provided below. The magnitude of the fine shall reflect the seriousness or potential seriousness of the threat to human health and the environment posed by the violation, but shall not exceed twenty thousand dollars, except that if a court of competent jurisdiction determines that the person responsible for illegal disposal of demolition waste under this subsection did so for remuneration as a part of an ongoing commercial activity, the court shall set a fine which reflects the seriousness or potential threat to human health and the environment which at least equals the economic gain obtained by the person, and such fine may exceed the maximum established herein.

2. Any person who purposely or knowingly disposes of or causes the disposal of more than two thousand pounds or four hundred cubic feet of his or her personal construction or demolition waste on his or her own property shall be guilty of a class **[**C**] D** misdemeanor. If such person receives any amount of money, goods, or services in connection with permitting any other person to dispose of construction or demolition waste on his or her property, such person shall be guilty of a class **[**D**] E** felony.

3. The court shall order any person convicted of illegally disposing of demolition waste upon his **or her** own property for remuneration to clean up such waste and, if he **or she** fails to clean up the waste or if he **or she** is unable to clean up the waste, the court may notify the county recorder of the county containing the illegal disposal site. The notice shall be designed to be recorded on the record.

4. The court may order restitution by requiring any person convicted under this section to clean up any demolition waste he illegally dumped and the court may require any such person to perform additional community service by cleaning up and properly disposing of demolition waste illegally dumped by other persons.

5. The prosecutor of any county or circuit attorney of any city not within a county may, by information or indictment, institute a prosecution for any violation of the provisions of this section.

6. Any person shall be guilty of conspiracy as defined in section 564.016 if he or she knows or should have known that his or her agent or employee has committed the acts described in sections 260.210 to 260.212 while engaged in the course of employment.**]**

[260.212. SOLID WASTE, CRIMINAL DISPOSITION OF — PENALTIES — CONSPIRACY. — 1. A person commits the offense of criminal disposition of solid waste if he purposely or knowingly disposes of or causes the disposal of more than five hundred pounds or one hundred cubic feet of commercial or residential solid waste on property in this state other than a solid waste processing facility or solid waste disposal area having a permit as required by section 260.205; provided that, this subsection shall not prohibit the use or require a solid waste permit for the use of solid wastes in normal farming operations or in the processing or manufacturing of other products in a manner that will not create a public nuisance or adversely affect public health and shall not prohibit the disposal of or require a solid waste permit for the disposal by an individual of solid wastes resulting from his or her own residential activities on property owned or lawfully occupied by him or her when such wastes do not thereby create a public nuisance or adversely affect the public health. Criminal disposition of solid waste is a class [D**] E** felony. In addition to other penalties prescribed by law, a person convicted of criminal disposition of solid waste is subject to a fine, and the magnitude of the fine shall reflect the seriousness or potential seriousness of the threat to human health and the environment posed by the violation, but shall not exceed twenty thousand dollars, except that if a court of competent jurisdiction determines that the person responsible for illegal disposal of solid waste under this subsection did so for remuneration as a part of an ongoing commercial activity, the court shall set a fine which reflects the seriousness or potential threat to human health and the environment which at least equals the economic gain obtained by the person, and such fine may exceed the maximum established herein.

2. The court shall order any person convicted of illegally disposing of solid waste upon his **or her** own property for remuneration to clean up such waste and, if he **or she** fails to clean up the waste or if he **or she** is unable to clean up the waste, the court may notify the county recorder of the county containing the illegal disposal site. The notice shall be designed to be recorded on the record.

3. The court may order restitution by requiring any person convicted under this section to clean up any commercial or residential solid waste he illegally dumped and the court may require any such person to perform additional community service by cleaning up commercial or residential solid waste illegally dumped by other persons.

4. The prosecutor of any county or circuit attorney of any city not within a county may, by information or indictment, institute a prosecution for any violation of the provisions of this section.

5. Any person shall be guilty of conspiracy as defined in section 564.016 if he knows or should have known that his **or her** agent or employee has committed the acts described in sections 260.210 to 260.212 while engaged in the course of employment.**]**

[476.055. STATEWIDE COURT AUTOMATION FUND CREATED, ADMINISTRATION, COMMITTEE, MEMBERS — POWERS, DUTIES, LIMITATION — UNAUTHORIZED RELEASE OF INFORMATION, PENALTY — REPORT — EXPIRATION DATE. — 1. There is hereby established in the state treasury the "Statewide Court Automation Fund". All moneys collected pursuant to section 488.027, as well as gifts,

contributions, devises, bequests, and grants received relating to automation of judicial record keeping, and moneys received by the judicial system for the dissemination of information and sales of publications developed relating to automation of judicial record keeping, shall be credited to the fund. Moneys credited to this fund may only be used for the purposes set forth in this section and as appropriated by the general assembly. Any unexpended balance remaining in the statewide court automation fund at the end of each biennium shall not be subject to the provisions of section 33.080 requiring the transfer of such unexpended balance to general revenue; except that, any unexpended balance remaining in the fund on September 1, 2018, shall be transferred to general revenue.

2. The statewide court automation fund shall be administered by a court automation committee consisting of the following: the chief justice of the supreme court, a judge from the court of appeals, four circuit judges, four associate circuit judges, four employees of the circuit court, the commissioner of administration, two members of the house of representatives appointed by the speaker of the house, two members of the senate appointed by the president pro tem of the senate and two members of the Missouri Bar. The judge members and employee members shall be appointed by the chief justice. The commissioner of administration shall serve ex officio. The members of the Missouri Bar shall be appointed by the board of governors of the Missouri Bar. Any member of the committee may designate another person to serve on the committee in place of the committee member.

3. The committee shall develop and implement a plan for a statewide court automation system. The committee shall have the authority to hire consultants, review systems in other jurisdictions and purchase goods and services to administer the provisions of this section. The committee may implement one or more pilot projects in the state for the purposes of determining the feasibility of developing and implementing such plan. The members of the committee shall be reimbursed from the court automation fund for their actual expenses in performing their official duties on the committee.

4. Any purchase of computer software or computer hardware that exceeds five thousand dollars shall be made pursuant to the requirements of the office of administration for lowest and best bid. Such bids shall be subject to acceptance by the office of administration. The court automation committee shall determine the specifications for such bids.

5. The court automation committee shall not require any circuit court to change any operating system in such court, unless the committee provides all necessary personnel, funds and equipment necessary to effectuate the required changes. No judicial circuit or county may be reimbursed for any costs incurred pursuant to this subsection unless such judicial circuit or county has the approval of the court automation committee prior to incurring the specific cost.

6. Any court automation system, including any pilot project, shall be implemented, operated and maintained in accordance with strict standards for the security and privacy of confidential judicial records. Any person who knowingly releases information from a confidential judicial record is guilty of a class B misdemeanor. Any person who, knowing that a judicial record is confidential, uses information from such confidential record for financial gain is guilty of a class [D**]** **E** felony.

7. On the first day of February, May, August and November of each year, the court automation committee shall file a report on the progress of the statewide automation system with **[**the joint legislative committee on court automation. Such committee shall consist of the following**]**:

(1) The chair of the house budget committee;

(2) The chair of the senate appropriations committee;

(3) The chair of the house judiciary committee; **and**

(4) The chair of the senate judiciary committee**[**;

(5) One member of the minority party of the house appointed by the speaker of the house of representatives; and

(6) One member of the minority party of the senate appointed by the president pro tempore of the senate.

8. The members of the joint legislative committee shall be reimbursed from the court automation fund for their actual expenses incurred in the performance of their official duties as members of the joint legislative committee on court automation**]**.

[9.**] 8.** Section 488.027 shall expire on September 1, 2018. The court automation committee established pursuant to this section may continue to function until completion of its duties prescribed by this section, but shall complete its duties prior to September 1, 2020.

10. This section shall expire on September 1, 2020.**]**

[[566.135.] 545.940. DEFENDANT MAY BE TESTED FOR VARIOUS SEXUALLY TRANSMITTED DISEASES, WHEN. — 1. Pursuant to a motion filed by the prosecuting attorney or circuit attorney with notice given to the defense attorney and for good cause shown, in any criminal case in which a defendant has been charged by the prosecuting attorney's office or circuit attorney's office with any offense under **[**this chapter or pursuant to section 575.150, 567.020, 565.050, 565.060, 565.070,**] chapter 566 or section 565.050, assault in the first degree; 565.052, assault in the second degree; 565.054, assault in the third degree; 565.056, assault in the fourth degree; section** 565.072, **domestic assault in the first degree; section** 565.073, **domestic assault in the second degree; section** 565.074, **[**565.075, 565.081, 565.082, 565.083,**] domestic assault in the third degree; section 565.076, domestic assault in the fourth degree; section 567.020, prostitution; section** 568.045, **endangering the welfare of a child in the first degree; section** 568.050, **[**or**] endangering the welfare of a child in the second degree; section** 568.060, **abuse of a child; section 575.150, resisting or interfering with an arrest;** or paragraph (a), (b), or (c), of subdivision (2) of subsection 1 of section 191.677, **recklessly exposing a person to HIV,** the court may order that the defendant be conveyed to a state-, city-, or county-operated HIV clinic for testing for HIV, hepatitis B, hepatitis C, syphilis, gonorrhea, and chlamydia. The results of **[**the defendant's HIV, hepatitis B, hepatitis C, syphilis, gonorrhea, and chlamydia**] such** tests shall be released to the victim and his or her parent or legal guardian if the victim is a minor. The results of **[**the defendant's HIV, hepatitis B, hepatitis C, syphilis, gonorrhea, and chlamydia**] such** tests shall also be released to the prosecuting attorney or circuit attorney and the defendant's attorney. The state's motion to obtain said testing, the court's order of the same, and the test results shall be sealed in the court file.

2. As used in this section, "HIV" means the human immunodeficiency virus that causes acquired immunodeficiency syndrome.**]**

[556.061. CODE DEFINITIONS. — In this code, unless the context requires a different definition, the following [shall apply**] terms shall mean**:

(1) **"Access", to instruct, communicate with, store data in, retrieve or extract data from, or otherwise make any use of any resources of, a computer, computer system, or computer network;**

(2) "Affirmative defense" **[**has the meaning specified in section 556.056**] :**

(a) The defense referred to is not submitted to the trier of fact unless supported by evidence; and

(b) If the defense is submitted to the trier of fact the defendant has the burden of persuasion that the defense is more probably true than not;

[(2)**]** **(3)** "Burden of injecting the issue" **[**has the meaning specified in section 556.051**] :**

(a) The issue referred to is not submitted to the trier of fact unless supported by evidence; and

(b) If the issue is submitted to the trier of fact any reasonable doubt on the issue requires a finding for the defendant on that issue;

[(3)**]** **(4)** "Commercial film and photographic print processor", any person who develops exposed photographic film into negatives, slides or prints, or who makes prints from negatives or slides, for compensation. The term commercial film and photographic print processor shall include all employees of such persons but shall not include a person who develops film or makes prints for a public agency;

(5) "Computer", the box that houses the central processing unit (cpu), along with any internal storage devices, such as internal hard drives, and internal communication devices, such as internal modems capable of sending or receiving electronic mail or fax cards, along with any other hardware stored or housed internally. Thus, computer refers to hardware, software and data contained in the main unit. Printers, external modems attached by cable to the main unit, monitors, and other external attachments will be referred to collectively as peripherals and discussed individually when appropriate. When the computer and all peripherals are referred to as a package, the term "computer system" is used. Information refers to all the information on a computer system including both software applications and data;

(6) "Computer equipment", computers, terminals, data storage devices, and all other computer hardware associated with a computer system or network;

(7) "Computer hardware", all equipment which can collect, analyze, create, display, convert, store, conceal or transmit electronic, magnetic, optical or similar computer impulses or data. Hardware includes, but is not limited to, any data processing devices, such as central processing units, memory typewriters and self-contained laptop or notebook computers; internal and peripheral storage devices, transistor-like binary devices and other memory storage devices, such as floppy disks, removable disks, compact disks, digital video disks, magnetic tape, hard drive, optical disks and digital memory; local area networks, such as two or more computers connected together to a central computer server via cable or modem; peripheral input or output devices, such as keyboards, printers, scanners, plotters, video display monitors and optical readers; and related communication devices, such as modems, cables and connections, recording equipment, RAM or ROM units, acoustic couplers, automatic dialers, speed dialers, programmable telephone dialing or signaling devices and electronic tone-generating devices; as well as any devices, mechanisms or parts that can be used to restrict access to computer hardware, such as physical keys and locks;

(8) "Computer network", two or more interconnected computers or computer systems;

(9) "Computer program", a set of instructions, statements, or related data that directs or is intended to direct a computer to perform certain functions;

(10) "Computer software", digital information which can be interpreted by a computer and any of its related components to direct the way they work. Software is stored in electronic, magnetic, optical or other digital form. The term commonly includes programs to run operating systems and applications, such as word processing, graphic, or spreadsheet programs, utilities, compilers, interpreters and communications programs;

(11) "Computer-related documentation", written, recorded, printed or electronically stored material which explains or illustrates how to configure or use computer hardware, software or other related items;

(12) "Computer system", a set of related, connected or unconnected, computer equipment, data, or software;

[(4)**] (13)** "Confinement":

(a) A person is in confinement when such person is held in a place of confinement pursuant to arrest or order of a court, and remains in confinement until:

a. A court orders the person's release; or

b. The person is released on bail, bond, or recognizance, personal or otherwise; or

c. A public servant having the legal power and duty to confine the person authorizes his release without guard and without condition that he return to confinement;

(b) A person is not in confinement if:

a. The person is on probation or parole, temporary or otherwise; or

b. The person is under sentence to serve a term of confinement which is not continuous, or is serving a sentence under a work-release program, and in either such case is not being held in a place of confinement or is not being held under guard by a person having the legal power and duty to transport the person to or from a place of confinement;

[(5)**] (14)** "Consent": consent or lack of consent may be expressed or implied. Assent does not constitute consent if:

(a) It is given by a person who lacks the mental capacity to authorize the conduct charged to constitute the offense and such mental incapacity is manifest or known to the actor; or

(b) It is given by a person who by reason of youth, mental disease or defect, intoxication, a drug-induced state, or any other reason is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense; or

(c) It is induced by force, duress or deception;

(15) "Controlled substance", a drug substance, or immediate precursor in schedules I through V as defined in chapter 195;

[(6)**] (16)** "Criminal negligence" **[**has the meaning specified in section 562.016**] , failure to be aware of a substantial and unjustifiable risk that circumstances exist or a result will follow, and such failure constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation**;

[(7)**] (17)** "Custody", a person is in custody when **[**the person**] he or she** has been arrested but has not been delivered to a place of confinement;

(18) "Damage", when used in relation to a computer system or network, means any alteration, deletion, or destruction of any part of the computer system or network;

[(8)**] (19)** "Dangerous felony" **[**means**] ,** the felonies of arson in the first degree, assault in the first degree, attempted rape in the first degree if physical injury results, attempted forcible rape if physical injury results, attempted sodomy in the first degree if physical injury results, attempted forcible sodomy if physical injury results, rape in the first degree, forcible rape, sodomy in the first degree, forcible sodomy, **assault in the second degree if the victim of such assault is a special victim as defined in subdivision (14) of section 565.002, kidnapping in the first degree,** kidnapping, murder in the second degree, assault of a law enforcement officer in the first degree, domestic assault in the first degree, elder abuse in the first degree, robbery in the first

degree, statutory rape in the first degree when the victim is a child less than twelve years of age at the time of the commission of the act giving rise to the offense, statutory sodomy in the first degree when the victim is a child less than twelve years of age at the time of the commission of the act giving rise to the offense, **[**and,**]** **child molestation in the first or second degree,** abuse of a child if the child dies as a result of injuries sustained from conduct chargeable under section 568.060, child kidnapping, **[**and**]** parental kidnapping committed by detaining or concealing the whereabouts of the child for not less than one hundred twenty days under section 565.153**, and an "intoxication-related traffic offense" or "intoxication-related boating offense" if the person is found to be a "habitual offender" as such terms are defined in section 577.001**;

[(9)**] (20)** "Dangerous instrument" **[**means**] ,** any instrument, article or substance, which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury;

(21) "Data", a representation of information, facts, knowledge, concepts, or instructions prepared in a formalized or other manner and intended for use in a computer or computer network. Data may be in any form including, but not limited to, printouts, microfiche, magnetic storage media, punched cards and as may be stored in the memory of a computer;

[(10)**] (22)** "Deadly weapon" **[**means**] ,** any firearm, loaded or unloaded, or any weapon from which a shot, readily capable of producing death or serious physical injury, may be discharged, or a switchblade knife, dagger, billy **club**, blackjack or metal knuckles;

(23) "Digital camera", a camera that records images in a format which enables the images to be downloaded into a computer;

(24) "Disability", a mental, physical, or developmental impairment that substantially limits one or more major life activities or the ability to provide adequately for one's care or protection, whether the impairment is congenital or acquired by accident, injury or disease, where such impairment is verified by medical findings;

(25) "Elderly person", a person sixty years of age or older;

[(11)**] (26)** "Felony" **[**has the meaning specified in section 556.016**] , an offense so designated or an offense for which persons found guilty thereof may be sentenced to death or imprisonment for a term of more than one year**;

[(12)**] (27)** "Forcible compulsion" **[**means**]** either:

(a) Physical force that overcomes reasonable resistance; or

(b) A threat, express or implied, that places a person in reasonable fear of death, serious physical injury or kidnapping of such person or another person;

[(13)**] (28)** "Incapacitated" **[**means that**] , a temporary or permanent** physical or mental condition**[**, temporary or permanent,**]** in which a person is unconscious, unable to appraise the nature of **[**such person's**] his or her** conduct, or unable to communicate unwillingness to an act;

[(14)**] (29)** "Infraction" **[**has the meaning specified in section 556.021**] , a violation defined by this code or by any other statute of this state if it is so designated or if no sentence other than a fine, or fine and forfeiture or other civil penalty, is authorized upon conviction**;

[(15)**] (30)** "Inhabitable structure" **[**has the meaning specified in section 569.010**] , a vehicle, vessel or structure:**

(a) Where any person lives or carries on business or other calling; or

(b) Where people assemble for purposes of business, government, education, religion, entertainment, or public transportation; or

(c) Which is used for overnight accommodation of persons. Any such vehicle, vessel, or structure is "inhabitable" regardless of whether a person is actually present.

If a building or structure is divided into separately occupied units, any unit not occupied by the actor is an "inhabitable structure of another";

[(16)**] (31)** "Knowingly" **[**has the meaning specified in section 562.016**] , when used with respect to:**

(a) Conduct or attendant circumstances, means a person is aware of the nature of his or her conduct or that those circumstances exist; or

(b) A result of conduct, means a person is aware that his or her conduct is practically certain to cause that result;

[(17)**] (32)** "Law enforcement officer" **[**means**] ,** any public servant having both the power and duty to make arrests for violations of the laws of this state, and federal law enforcement officers authorized to carry firearms and to make arrests for violations of the laws of the United States;

[(18)**] (33)** "Misdemeanor" **[**has the meaning specified in section 556.016**] , an offense so designated or an offense for which persons found guilty thereof may be sentenced to imprisonment for a term of which the maximum is one year or less**;

(34) "Of another", property that any entity, including but not limited to any natural person, corporation, limited liability company, partnership, association, governmental subdivision or instrumentality, other than the actor, has a possessory or proprietary interest therein, except that property shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement;

[(19)**] (35)** "Offense" **[**means**] ,** any felony**[**,**] or** misdemeanor **[**or infraction**]**;

[(20)**] (36)** "Physical injury" **[**means physical pain, illness, or any impairment of physical condition**] , slight impairment of any function of the body or temporary loss of use of any part of the body**;

[(21)**] (37)** "Place of confinement" **[**means**] ,** any building or facility and the grounds thereof wherein a court is legally authorized to order that a person charged with or convicted of a crime be held;

[(22)**] (38)** "Possess" or "possessed" **[**means**] ,** having actual or constructive possession of an object with knowledge of its presence. A person has actual possession if such person has the object on his or her person or within easy reach and convenient control. A person has constructive possession if such person has the power and the intention at a given time to exercise dominion or control over the object either directly or through another person or persons. Possession may also be sole or joint. If one person alone has possession of an object, possession is sole. If two or more persons share possession of an object, possession is joint;

(39) "Property", anything of value, whether real or personal, tangible or intangible, in possession or in action;

[(23)**] (40)** "Public servant" **[**means**] ,** any person employed in any way by a government of this state who is compensated by the government by reason of such person's employment, any person appointed to a position with any government of this state, or any person elected to a position with any government of this state. It includes, but is not limited to, legislators, jurors, members of the judiciary and law enforcement officers. It does not include witnesses;

[(24)**] (41)** "Purposely" **[**has the meaning specified in section 562.016**] , when used with respect to a person's conduct or to a result thereof, means when it is his or her conscious object to engage in that conduct or to cause that result**;

[(25)**] (42)** "Recklessly" **[**has the meaning specified in section 562.016**] , consciously disregarding a substantial and unjustifiable risk that circumstances exist or that a result will follow, and such disregard constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation**;

[(26) "Ritual" or "ceremony" means an act or series of acts performed by two or more persons as part of an established or prescribed pattern of activity;

(27)**] (43)** "Serious emotional injury", an injury that creates a substantial risk of temporary or permanent medical or psychological damage, manifested by impairment of a behavioral, cognitive or physical condition. Serious emotional injury shall be established by testimony of qualified experts upon the reasonable expectation of probable harm to a reasonable degree of medical or psychological certainty;

[(28)**] (44)** "Serious physical injury" **[**means**] ,** physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body;

[(29) "Sexual conduct" means acts of human masturbation; deviate sexual intercourse; sexual intercourse; or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female in an act of apparent sexual stimulation or gratification;

(30) "Sexual contact" means any touching of the genitals or anus of any person, or the breast of any female person, or any such touching through the clothing, for the purpose of arousing or gratifying sexual desire of any person;

(31) "Sexual performance", any performance, or part thereof, which includes sexual conduct by a child who is less than seventeen years of age;**]**

(45) "Services", when used in relation to a computer system or network, means use of a computer, computer system, or computer network and includes, but is not limited to, computer time, data processing, and storage or retrieval functions;

(46) "Sexual orientation", male or female heterosexuality, homosexuality or bisexuality by inclination, practice, identity or expression, or having a self-image or identity not traditionally associated with one's gender;

(47) "Vehicle", a self-propelled mechanical device designed to carry a person or persons, excluding vessels or aircraft;

(48) "Vessel", any boat or craft propelled by a motor or by machinery, whether or not such motor or machinery is a principal source of propulsion used or capable of being used as a means of transportation on water, or any boat or craft more than twelve feet in length which is powered by sail alone or by a combination of sail and machinery, and used or capable of being used as a means of transportation on water, but not any boat or craft having, as the only means of propulsion, a paddle or oars;

[(32)**] (49)** "Voluntary act" **[**has the meaning specified in section 562.011**] :**

(a) A bodily movement performed while conscious as a result of effort or determination. Possession is a voluntary act if the possessor knowingly procures or receives the thing possessed, or having acquired control of it was aware of his or her control for a sufficient time to have enabled him or her to dispose of it or terminate his or her control; or

(b) An omission to perform an act of which the actor is physically capable. A person is not guilty of an offense based solely upon an omission to perform an act unless the law defining the offense expressly so provides, or a duty to perform the omitted act is otherwise imposed by law;

(50) "Vulnerable person", any person in the custody, care, or control of the department of mental health who is receiving services from an operated, funded, licensed, or certified program.]

[558.019. PRIOR FELONY CONVICTIONS, MINIMUM PRISON TERMS — PRISON COMMITMENT DEFINED — DANGEROUS FELONY, MINIMUM TERM PRISON TERM, HOW CALCULATED — SENTENCING COMMISSION CREATED, MEMBERS, DUTIES — EXPENSES — COOPERATION WITH COMMISSION — RESTORATIVE JUSTICE METHODS — RESTITUTION FUND. — 1. This section shall not be construed to affect the powers of the governor under article IV, section 7, of the Missouri Constitution. This statute shall not affect those provisions of section 565.020, section [558.018] **566.125,** or section 571.015, which set minimum terms of sentences, or the provisions of section 559.115, relating to probation.

2. The provisions of subsections 2 to 5 of this section shall be applicable to all classes of felonies except those set forth in chapter **[**195**]** **579**, and those otherwise excluded in subsection 1 of this section. For the purposes of this section, "prison commitment" means and is the receipt by the department of corrections of an offender after sentencing. For purposes of this section, prior prison commitments to the department of corrections shall not include **[**commitment to a regimented discipline program established pursuant to section 217.378**]** **an offender's first incarceration prior to release on probation under section 217.362 or an offender's incarceration prior to release on probation under section 559.115**. Other provisions of the law to the contrary notwithstanding, any offender who has **[**pleaded guilty to or has**]** been found guilty of a felony other than a dangerous felony as defined in section 556.061 and is committed to the department of corrections shall be required to serve the following minimum prison terms:

(1) If the offender has one previous prison commitment to the department of corrections for a felony offense, the minimum prison term which the offender must serve shall be forty percent of his or her sentence or until the offender attains seventy years of age, and has served at least thirty percent of the sentence imposed, whichever occurs first;

(2) If the offender has two previous prison commitments to the department of corrections for felonies unrelated to the present offense, the minimum prison term which the offender must serve shall be fifty percent of his or her sentence or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first;

(3) If the offender has three or more previous prison commitments to the department of corrections for felonies unrelated to the present offense, the minimum prison term which the offender must serve shall be eighty percent of his or her sentence or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first.

3. Other provisions of the law to the contrary notwithstanding, any offender who has **[**pleaded guilty to or has**]** been found guilty of a dangerous felony as defined in section 556.061 and is committed to the department of corrections shall be required to serve a minimum prison term of eighty-five percent of the sentence imposed by the court or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first.

4. For the purpose of determining the minimum prison term to be served, the following calculations shall apply:

(1) A sentence of life shall be calculated to be thirty years;

(2) Any sentence either alone or in the aggregate with other consecutive sentences for **[**crimes**]** **offenses** committed at or near the same time which is over seventy-five years shall be calculated to be seventy-five years.

5. For purposes of this section, the term "minimum prison term" shall mean time required to be served by the offender before he or she is eligible for parole, conditional release or other early release by the department of corrections.

6. (1) A sentencing advisory commission is hereby created to consist of eleven members. One member shall be appointed by the speaker of the house. One member shall be appointed by the president pro tem of the senate. One member shall be the director of the department of corrections. Six members shall be appointed by and serve at the pleasure of the governor from among the following: the public defender commission; private citizens; a private member of the Missouri Bar; the board of probation and parole; and a prosecutor. Two members shall be appointed by the supreme court, one from a metropolitan area and one from a rural area. All members shall be appointed to a four-year term. All members of the sentencing commission appointed prior to August 28, 1994, shall continue to serve on the sentencing advisory commission at the pleasure of the governor.

(2) The commission shall study sentencing practices in the circuit courts throughout the state for the purpose of determining whether and to what extent disparities exist among the various circuit courts with respect to the length of sentences imposed and the use of probation for offenders convicted of the same or similar **[**crimes**] offenses** and with similar criminal histories. The commission shall also study and examine whether and to what extent sentencing disparity among economic and social classes exists in relation to the sentence of death and if so, the reasons therefor**, if** sentences are comparable to other states, if the length of the sentence is appropriate, and the rate of rehabilitation based on sentence. It shall compile statistics, examine cases, draw conclusions, and perform other duties relevant to the research and investigation of disparities in death penalty sentencing among economic and social classes.

(3) The commission shall study alternative sentences, prison work programs, work release, home-based incarceration, probation and parole options, and any other programs and report the feasibility of these options in Missouri.

(4) The governor shall select a chairperson who shall call meetings of the commission as required or permitted pursuant to the purpose of the sentencing commission.

(5) The members of the commission shall not receive compensation for their duties on the commission, but shall be reimbursed for actual and necessary expenses incurred in the performance of these duties and for which they are not reimbursed by reason of their other paid positions.

(6) The circuit and associate circuit courts of this state, the office of the state courts administrator, the department of public safety, and the department of corrections shall cooperate with the commission by providing information or access to information needed by the commission. The office of the state courts administrator will provide needed staffing resources.

7. Courts shall retain discretion to lower or exceed the sentence recommended by the commission as otherwise allowable by law, and to order restorative justice methods, when applicable.

8. If the imposition or execution of a sentence is suspended, the court may order any or all of the following restorative justice methods, or any other method that the court finds just or appropriate:

(1) Restitution to any victim or a statutorily created fund for costs incurred as a result of the offender's actions;

(2) Offender treatment programs;

(3) Mandatory community service;

(4) Work release programs in local facilities; and

(5) Community-based residential and nonresidential programs.

9. The provisions of this section shall apply only to offenses occurring on or after August 28, 2003.

10. Pursuant to subdivision (1) of subsection 8 of this section, the court may order the assessment and payment of a designated amount of restitution to a county law enforcement restitution fund established by the county commission pursuant to section 50.565. Such contribution shall not exceed three hundred dollars for any charged offense. Any restitution moneys deposited into the county law enforcement restitution fund pursuant to this section shall only be expended pursuant to the provisions of section 50.565.

11. A judge may order payment to a restitution fund only if such fund had been created by ordinance or resolution of a county of the state of Missouri prior to sentencing. A judge shall not have any direct supervisory authority or administrative control over any fund to which the judge is ordering a **[**defendant**]** **person** to make payment.

12. A **[**defendant**]** **person** who fails to make a payment to a county law enforcement restitution fund may not have his or her probation revoked solely for failing to make such payment unless the judge, after evidentiary hearing, makes a finding supported by a preponderance of the evidence that the **[**defendant**]** **person** either willfully refused to make the payment or that the **[**defendant**]** **person** willfully, intentionally, and purposefully failed to make sufficient bona fide efforts to acquire the resources to pay.

13. Nothing in this section shall be construed to allow the sentencing advisory commission to issue recommended sentences in specific cases pending in the courts of this state.**]**

[559.036. DURATION OF PROBATION — REVOCATION. — 1. A term of probation commences on the day it is imposed. Multiple terms of Missouri probation, whether imposed at the same time or at different times, shall run concurrently. Terms of probation shall also run concurrently with any federal or other state jail, prison, probation or parole term for another offense to which the defendant is or becomes subject during the period, unless otherwise specified by the Missouri court.

2. The court may terminate a period of probation and discharge the defendant at any time before completion of the specific term fixed under section 559.016 if warranted by the conduct of the defendant and the ends of justice. The court may extend the term of the probation, but no more than one extension of any probation may be ordered except that the court may extend the term of probation by one additional year by order of the court if the defendant admits he or she has violated the conditions of probation or is found by the court to have violated the conditions of his or her probation. Total time on any probation term, including any extension shall not exceed the maximum term established in section 559.016. Procedures for termination, discharge and extension may be established by rule of court.

3. If the defendant violates a condition of probation at any time prior to the expiration or termination of the probation term, the court may continue him **or her** on the existing conditions, with or without modifying or enlarging the conditions or extending the term.

4. (1) Unless the defendant consents to the revocation of probation, if a continuation, modification, enlargement or extension is not appropriate under this section, the court shall order placement of the offender in one of the department of corrections' one hundred twenty-day programs so long as:

(a) The underlying offense for the probation is a class **[**C or**]** D **or E** felony or an offense listed in chapter **[**195**]** **579 or an offense previously listed in chapter 195**; except that, the court may, upon its own motion or a motion of the prosecuting or circuit attorney, make a finding that an offender is not eligible if the underlying offense is involuntary manslaughter in the first degree, involuntary manslaughter in

the second degree, **[**aggravated**]** stalking **in the first degree**, assault in the second degree, sexual assault, rape in the second degree, domestic assault in the second degree, assault **[**of a law enforcement officer in the second degree**] in the third degree when the victim is a special victim**, statutory rape in the second degree, statutory sodomy in the second degree, deviate sexual assault, sodomy in the second degree, sexual misconduct involving a child, incest, endangering the welfare of a child in the first degree under subdivision (1) or (2) of subsection 1 of section 568.045, abuse of a child, invasion of privacy **[**or**] ,** any case in which the defendant is found guilty of a felony offense under chapter 571**, or an offense of aggravated stalking or assault of a law enforcement officer in the second degree as such offenses existed prior to January 1, 2017**;

(b) The probation violation is not the result of the defendant being an absconder or being found guilty of, pleading guilty to, or being arrested on suspicion of any felony, misdemeanor, or infraction. For purposes of this subsection, "absconder" shall mean an offender under supervision who has left such offender's place of residency without the permission of the offender's supervising officer for the purpose of avoiding supervision;

(c) The defendant has not violated any conditions of probation involving the possession or use of weapons, or a stay-away condition prohibiting the defendant from contacting a certain individual; and

(d) The defendant has not already been placed in one of the programs by the court for the same underlying offense or during the same probation term.

(2) Upon receiving the order, the department of corrections shall conduct an assessment of the offender and place such offender in the appropriate one hundred twenty-day program under subsection 3 of section 559.115.

(3) Notwithstanding any of the provisions of subsection 3 of section 559.115 to the contrary, once the defendant has successfully completed the program under this subsection, the court shall release the defendant to continue to serve the term of probation, which shall not be modified, enlarged, or extended based on the same incident of violation. Time served in the program shall be credited as time served on any sentence imposed for the underlying offense.

5. If the defendant consents to the revocation of probation or if the defendant is not eligible under subsection 4 of this section for placement in a program and a continuation, modification, enlargement, or extension of the term under this section is not appropriate, the court may revoke probation and order that any sentence previously imposed be executed. If imposition of sentence was suspended, the court may revoke probation and impose any sentence available under section 557.011. The court may mitigate any sentence of imprisonment by reducing the prison or jail term by all or part of the time the defendant was on probation. The court may, upon revocation of probation, place an offender on a second term of probation. Such probation shall be for a term of probation as provided by section 559.016, notwithstanding any amount of time served by the offender on the first term of probation.

6. Probation shall not be revoked without giving the probationer notice and an opportunity to be heard on the issues of whether such probationer violated a condition of probation and, if a condition was violated, whether revocation is warranted under all the circumstances. Not less than five business days prior to the date set for a hearing on the violation, except for a good cause shown, the judge shall inform the probationer that he or she may have the right to request the appointment of counsel if the probationer is unable to retain counsel. If the probationer requests counsel, the judge shall determine whether counsel is necessary to protect the probationer's due process rights. If the judge determines that counsel is not necessary, the judge shall state the grounds for the decision in the record.

7. The prosecuting or circuit attorney may file a motion to revoke probation or at any time during the term of probation, the court may issue a notice to the probationer to appear to answer a charge of a violation, and the court may issue a warrant of arrest for the violation. Such notice shall be personally served upon the probationer. The warrant shall authorize the return of the probationer to the custody of the court or to any suitable detention facility designated by the court. Upon the filing of the prosecutor's or circuit attorney's motion or on the court's own motion, the court may immediately enter an order suspending the period of probation and may order a warrant for the defendant's arrest. The probation shall remain suspended until the court rules on the prosecutor's or circuit attorney's motion, or until the court otherwise orders the probation reinstated.

8. The power of the court to revoke probation shall extend for the duration of the term of probation designated by the court and for any further period which is reasonably necessary for the adjudication of matters arising before its expiration, provided that some affirmative manifestation of an intent to conduct a revocation hearing occurs prior to the expiration of the period and that every reasonable effort is made to notify the probationer and to conduct the hearing prior to the expiration of the period.**]**

[559.106. LIFETIME SUPERVISION OF CERTAIN SEXUAL OFFENDERS — ELECTRONIC MONITORING — TERMINATION AT AGE SIXTY-FIVE PERMITTED, WHEN. — 1. Notwithstanding any statutory provision to the contrary, when a court grants probation to an offender who has [pleaded guilty to or has**]** been found guilty of an offense in**:**

(1) Section 566.030, 566.032, 566.060, **[**or**]** 566.062, **[**based on an act committed on or after August 28, 2006, or the offender has pleaded guilty to or has been found guilty of an offense under section**]** 566.067, 566.083, 566.100, 566.151, 566.212, 566.213, 568.020, 568.080, or 568.090, based on an act committed on or after August 28, 2006**[**,**]** **; or**

(2) Section 566.068, 566.069, 566.210, 566.211, 573.200, or 573.205 based on an act committed on or after January 1, 2017,

against a victim who was less than fourteen years **[**old**]** **of age** and the offender is a prior sex offender as defined in subsection 2 of this section, the court shall order that the offender be supervised by the board of probation and parole for the duration of his or her natural life.

2. For the purpose of this section, a prior sex offender is a person who has previously **[**pleaded guilty to or has**]** been found guilty of an offense contained in chapter 566, or violating section 568.020, when the person had sexual intercourse or deviate sexual intercourse with the victim, or of violating subdivision (2) of subsection 1 of section 568.045.

3. When probation for the duration of the offender's natural life has been ordered, a mandatory condition of such probation is that the offender be electronically monitored. Electronic monitoring shall be based on a global positioning system or other technology that identifies and records the offender's location at all times.

4. In appropriate cases as determined by a risk assessment, the court may terminate the probation of an offender who is being supervised under this section when the offender is sixty-five years of age or older.**]**

[559.115. APPEALS, PROBATION NOT TO BE GRANTED, WHEN — PROBATION GRANTED AFTER DELIVERY TO DEPARTMENT OF CORRECTIONS, TIME LIMITATION, ASSESSMENT — ONE HUNDRED TWENTY DAY PROGRAM — NOTIFICATION TO

STATE, WHEN, HEARING — NO PROBATION IN CERTAIN CASES. — 1. Neither probation nor parole shall be granted by the circuit court between the time the transcript on appeal from the offender's conviction has been filed in appellate court and the disposition of the appeal by such court.

2. Unless otherwise prohibited by subsection 8 of this section, a circuit court only upon its own motion and not that of the state or the offender shall have the power to grant probation to an offender anytime up to one hundred twenty days after such offender has been delivered to the department of corrections but not thereafter. The court may request information and a recommendation from the department concerning the offender and such offender's behavior during the period of incarceration. Except as provided in this section, the court may place the offender on probation in a program created pursuant to section 217.777, or may place the offender on probation with any other conditions authorized by law.

3. The court may recommend placement of an offender in a department of corrections one hundred twenty-day program under this subsection or order such placement under subsection 4 of section 559.036. Upon the recommendation or order of the court, the department of corrections shall assess each offender to determine the appropriate one hundred twenty-day program in which to place the offender, which may include placement in the shock incarceration program or institutional treatment program. When the court recommends and receives placement of an offender in a department of corrections one hundred twenty-day program, the offender shall be released on probation if the department of corrections determines that the offender has successfully completed the program except as follows. Upon successful completion of a program under this subsection, the board of probation and parole shall advise the sentencing court of an offender's probationary release date thirty days prior to release. The court shall follow the recommendation of the department unless the court determines that probation is not appropriate. If the court determines that probation is not appropriate, the court may order the execution of the offender's sentence only after conducting a hearing on the matter within ninety to one hundred twenty days from the date the offender was delivered to the department of corrections. If the department determines the offender has not successfully completed a one hundred twenty-day program under this subsection, the offender shall be removed from the program and the court shall be advised of the removal. The department shall report on the offender's participation in the program and may provide recommendations for terms and conditions of an offender's probation. The court shall then have the power to grant probation or order the execution of the offender's sentence.

4. If the court is advised that an offender is not eligible for placement in a one hundred twenty-day program under subsection 3 of this section, the court shall consider other authorized dispositions. If the department of corrections one hundred twenty-day program under subsection 3 of this section is full, the court may place the offender in a private program approved by the department of corrections or the court, the expenses of such program to be paid by the offender, or in an available program offered by another organization. If the offender is convicted of a class C [or**] ,** class D**, or class E** nonviolent felony, the court may order probation while awaiting appointment to treatment.

5. Except when the offender has been found to be a predatory sexual offender pursuant to section **[**558.018**]** **566.125**, the court shall request the department of corrections to conduct a sexual offender assessment if the defendant **[**has pleaded guilty to or**]** has been found guilty of sexual abuse when classified as a class B felony. Upon completion of the assessment, the department shall provide to the court a report on the offender and may provide recommendations for terms and conditions of an offender's probation. The assessment shall not be considered a one hundred twenty-day program

as provided under subsection 3 of this section. The process for granting probation to an offender who has completed the assessment shall be as provided under subsections 2 and 6 of this section.

6. Unless the offender is being granted probation pursuant to successful completion of a one hundred twenty-day program the circuit court shall notify the state in writing when the court intends to grant probation to the offender pursuant to the provisions of this section. The state may, in writing, request a hearing within ten days of receipt of the court's notification that the court intends to grant probation. Upon the state's request for a hearing, the court shall grant a hearing as soon as reasonably possible. If the state does not respond to the court's notice in writing within ten days, the court may proceed upon its own motion to grant probation.

7. An offender's **[**first**]** incarceration under this section prior to release on probation shall not be considered a previous prison commitment for the purpose of determining a minimum prison term under the provisions of section 558.019.

8. Notwithstanding any other provision of law, probation may not be granted pursuant to this section to offenders who have been convicted of murder in the second degree pursuant to section 565.021; forcible rape pursuant to section 566.030 as it existed prior to August 28, 2013; rape in the first degree under section 566.030; forcible sodomy pursuant to section 566.060 as it existed prior to August 28, 2013; sodomy in the first degree under section 566.060; statutory rape in the first degree pursuant to section 566.032; statutory sodomy in the first degree pursuant to section 566.062; child molestation in the first degree pursuant to section 566.067 when classified as a class A felony; abuse of a child pursuant to section 568.060 when classified as a class A felony; **or** an offender who has been found to be a predatory sexual offender pursuant to section **[**558.018**]** **566.125**; or any offense in which there exists a statutory prohibition against either probation or parole.**]**

[559.633. COURT TO ORDER PARTICIPATION IN PROGRAM, WHEN — FEES DETERMINED BY DEPARTMENT OF CORRECTIONS — SUPPLEMENTAL FEE TO BE DEPOSITED IN CORRECTIONAL SUBSTANCE ABUSE EARNINGS FUND. — 1. Upon [a plea of guilty or**]** a finding of **[**guilty for a commission of**]** **guilt for** a felony offense pursuant to chapter **[**195**]** **579**, except for those offenses in which there exists a statutory prohibition against either probation or parole, when placing the person on probation, the court shall order the person to begin a required educational assessment and community treatment program within the first sixty days of probation as a condition of probation. Persons who are placed on probation after a period of incarceration pursuant to section 559.115 may not be required to participate in a required educational assessment and community treatment program.

2. The fees for the required educational assessment and community treatment program, or a portion of such fees, to be determined by the department of corrections, shall be paid by the person receiving the assessment. Any person who is assessed shall pay, in addition to any fee charged for the assessment, a supplemental fee of sixty dollars. The administrator of the program shall remit to the department of corrections the supplemental fees for all persons assessed, less two percent for administrative costs. The supplemental fees received by the department of corrections pursuant to this section shall be deposited in the correctional substance abuse earnings fund created pursuant to section 559.635.**]**

[565.002. DEFINITIONS. — As used in this chapter, unless a different meaning is otherwise plainly required **the following terms mean**:

(1) "Adequate cause" **[**means**] ,** cause that would reasonably produce a degree of passion in a person of ordinary temperament sufficient to substantially impair an ordinary person's capacity for self-control;

(2) **"Child", a person under seventeen years of age;**

(3) "Conduct"**,** includes any act or omission;

(4) "Course of conduct", a pattern of conduct composed of two or more acts, which may include communication by any means, over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of course of conduct. Such constitutionally protected activity includes picketing or other organized protests;

[(3)**] (5)** "Deliberation" means cool reflection for any length of time no matter how brief;

[(4) "Intoxicated condition" means under the influence of alcohol, a controlled substance, or drug, or any combination thereof;

(5) "Operates" means physically driving or operating or being in actual physical control of a motor vehicle;

(6) "Serious physical injury" means physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body;**]**

(6) "Domestic victim", a household or family member as the term "family" or "household member" is defined in section 455.010, including any child who is a member of the household or family;

(7) "Emotional distress", something markedly greater than the level of uneasiness, nervousness, unhappiness, or the like which are commonly experienced in day-to-day living;

(8) "Full or partial nudity", the showing of all or any part of the human genitals, pubic area, buttock, or any part of the nipple of the breast of any female person, with less than a fully opaque covering;

(9) "Legal custody", the right to the care, custody and control of a child;

(10) "Parent", either a biological parent or a parent by adoption;

(11) "Person having a right of custody", a parent or legal guardian of the child;

(12) "Photographs" or "films", the making of any photograph, motion picture film, videotape, or any other recording or transmission of the image of a person;

(13) "Place where a person would have a reasonable expectation of privacy", any place where a reasonable person would believe that a person could disrobe in privacy, without being concerned that the person's undressing was being viewed, photographed or filmed by another;

(14) "Special victim", any of the following:

(a) A law enforcement officer assaulted in the performance of official duties or as a direct result of such official duties;

(b) Emergency personnel, any paid or volunteer firefighter, emergency room or trauma center personnel, or emergency medical technician, assaulted in the performance of official duties or as a direct result of such official duties;

(c) A probation and parole officer assaulted in the performance of official duties or as a direct result of such official duties;

(d) An elderly person;

(e) A person with a disability;

(f) A vulnerable person;

(g) Any jailer or corrections officer of the state or one of its political subdivisions assaulted in the performance of official duties or as a direct result of such official duties;

(h) A highway worker in a construction or work zone as the terms "highway worker", "construction zone", and "work zone" are defined under section 304.580;

(i) Any utility worker, meaning any employee of a utility that provides gas, heat, electricity, water, steam, telecommunications services, or sewer services, whether privately, municipally, or cooperatively owned, while in the performance of his or her job duties, including any person employed under a contract;

(j) Any cable worker, meaning any employee of a cable operator, as such term is defined in section 67.2677, including any person employed under contract, while in the performance of his or her job duties; and

(k) Any employee of a mass transit system, including any employee of public bus or light rail companies, while in the performance of his or her job duties;

[(7)**] (15)** "Sudden passion" **[**means**] ,** passion directly caused by and arising out of provocation by the victim or another acting with the victim which passion arises at the time of the offense and is not solely the result of former provocation;

[(8)**] (16)** "Trier" **[**means**] ,** the judge or jurors to whom issues of fact, guilt or innocence, or the assessment and declaration of punishment are submitted for decision**;**

(17) "Views", the looking upon of another person, with the unaided eye or with any device designed or intended to improve visual acuity, for the purpose of arousing or gratifying the sexual desire of any person.]

[565.073. DOMESTIC ASSAULT, SECOND DEGREE — PENALTY. — 1. A person commits the [crime**] offense** of domestic assault in the second degree if the act involves a **[**family or household member, including any child who is a member of the family or household, as defined in section 455.010**] domestic victim, as the term "domestic victim" is defined under section 565.002**, and he or she:

(1) **[**Attempts to cause or**]** Knowingly causes physical injury to such family or household member by any means, including but not limited to, **[**by**]** use of a deadly weapon or dangerous instrument, or by choking or strangulation; or

(2) Recklessly causes serious physical injury to such family or household member; or

(3) Recklessly causes physical injury to such family or household member by means of any deadly weapon.

2. **The offense of** domestic assault in the second degree is a class **[**C**] D** felony.**]**

[566.147. CERTAIN OFFENDERS NOT TO RESIDE WITHIN ONE THOUSAND FEET OF A SCHOOL OR CHILD CARE FACILITY. — 1. Any person who, since July 1, 1979, has been or hereafter has [pleaded guilty or nolo contendere to, or been convicted of, or**]** been found guilty of:

(1) Violating any of the provisions of this chapter or the provisions of **[**subsection 2 of**]** section 568.020, incest; section 568.045, endangering the welfare of a child in the first degree; **[**subsection 2 of section 568.080**] section 573.200**, use of a child in a sexual performance; section **[**568.090**] 573.205**, promoting a sexual performance by a child; section 573.023, sexual exploitation of a minor; section 573.025, promoting child pornography in the first degree; section 573.035, promoting child pornography in the second degree; section 573.037, possession of child pornography, or section 573.040, furnishing pornographic material to minors; or

(2) Any offense in any other **[**state or foreign country, or under federal, tribal, or military**]** jurisdiction which, if committed in this state, would be a violation listed in this section; shall not reside within one thousand feet of any public school as defined in section 160.011, any private school giving instruction in a grade or grades not higher than the twelfth grade, **or** any child care facility that is licensed under chapter 210, or any child care facility as defined in section 210.201 that is exempt from state licensure but subject to state regulation under section 210.252 and holds itself out to be a child

care facility, where the school or facility is in existence at the time the individual begins to reside at the location.

2. If such person has already established a residence and a public school, a private school, or child care facility is subsequently built or placed within one thousand feet of such person's residence, then such person shall, within one week of the opening of such public school, private school, or child care facility, notify the county sheriff where such public school, private school, or child care facility is located that he or she is now residing within one thousand feet of such public school, private school, or child care facility and shall provide verifiable proof to the sheriff that he or she resided there prior to the opening of such public school, private school, or child care facility.

3. For purposes of this section, "resides" means sleeps in a residence, which may include more than one location and may be mobile or transitory.

4. Violation of the provisions of subsection 1 of this section is a class **[**D**]** **E** felony except that the second or any subsequent violation is a class B felony. Violation of the provisions of subsection 2 of this section is a class A misdemeanor except that the second or subsequent violation is a class **[**D**]** **E** felony.**]**

[566.148. CERTAIN OFFENDERS NOT TO PHYSICALLY BE PRESENT OR LOITER WITHIN FIVE HUNDRED FEET OF A CHILD CARE FACILITY — VIOLATION, PENALTY. — 1. Any person who has [pleaded guilty or nolo contendere to, or been convicted of, or**]** been found guilty of:

(1) Violating any of the provisions of this chapter or the provisions of **[**subsection 2 of**]** section 568.020, incest; section 568.045, endangering the welfare of a child in the first degree; **[**subsection 2 of section 568.080**]** **section 573.200**, use of a child in a sexual performance; section **[**568.090**]** **573.205**, promoting a sexual performance by a child; section 573.023, sexual exploitation of a minor; section 573.025, promoting child pornography in the first degree; section 573.035, promoting child pornography in the second degree; section 573.037, possession of child pornography, or section 573.040, furnishing pornographic material to minors; or

(2) Any offense in any other **[**state or foreign country, or under federal, tribal, or military**]** jurisdiction which, if committed in this state, would be a violation listed in this section;

shall not knowingly be physically present in or loiter within five hundred feet of or to approach, contact, or communicate with any child under eighteen years of age in any child care facility building, on the real property comprising any child care facility when persons under the age of eighteen are present in the building, on the grounds, or in the conveyance, unless the offender is a parent, legal guardian, or custodian of a student present in the building or on the grounds.

2. For purposes of this section, "child care facility" shall **[**have the same meaning as such term is defined in section 210.201**]** **include any child care facility licensed under chapter 210, or any child care facility that is exempt from state licensure but subject to state regulation under section 210.252 and holds itself out to be a child care facility**.

3. **[**Any person who violates**]** **Violation of** the provisions of this section is **[**guilty of**]** a class A misdemeanor.**]**

[566.149. CERTAIN OFFENDERS NOT TO BE PRESENT WITHIN FIVE HUNDRED FEET OF SCHOOL PROPERTY, EXCEPTION — PERMISSION REQUIRED FOR PARENTS OR GUARDIANS WHO ARE OFFENDERS, PROCEDURE — PENALTY. — 1. Any person who has [pleaded guilty or nolo contendere to, or been convicted of, or**]** been found guilty of:

(1) Violating any of the provisions of this chapter or the provisions **[**of subsection 2**]** of section 568.020, incest; section 568.045, endangering the welfare of a child in the

first degree; **[**subsection 2 of section 568.080**]** **section 573.200**, use of a child in a sexual performance; section **[**568.090**]** **573.205**, promoting a sexual performance by a child; section 573.023, sexual exploitation of a minor; section 573.025, promoting child pornography; or section 573.040, furnishing pornographic material to minors; or

(2) Any offense in any other **[**state or foreign country, or under tribal, federal, or military**]** jurisdiction which, if committed in this state, would be a violation listed in this section; shall not be present in or loiter within five hundred feet of any school building, on real property comprising any school, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity when persons under the age of eighteen are present in the building, on the grounds, or in the conveyance, unless the offender is a parent, legal guardian, or custodian of a student present in the building and has met the conditions set forth in subsection 2 of this section.

2. No parent, legal guardian, or custodian who has **[**pleaded guilty or nolo contendere to, or been convicted of, or**]** been found guilty of violating any of the offenses listed in subsection 1 of this section shall be present in any school building, on real property comprising any school, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity when persons under the age of eighteen are present in the building, on the grounds or in the conveyance unless the parent, legal guardian, or custodian has permission to be present from the superintendent or school board or in the case of a private school from the principal. In the case of a public school, if permission is granted, the superintendent or school board president must inform the principal of the school where the sex offender will be present. Permission may be granted by the superintendent, school board, or in the case of a private school from the principal for more than one event at a time, such as a series of events, however, the parent, legal guardian, or custodian must obtain permission for any other event he or she wishes to attend for which he or she has not yet had permission granted.

3. Regardless of the person's knowledge of his or her proximity to school property or a school-related activity, violation of the provisions of this section **[**shall be**]** **is** a class A misdemeanor.**]**

[577.001. CHAPTER DEFINITIONS. — [1.] As used in this chapter, **[**the term "court" means any circuit, associate circuit, or municipal court, including traffic court, but not any juvenile court or drug court.

2. As used in this chapter, the term "drive", "driving", "operates" or "operating" means physically driving or operating a motor vehicle.

3. As used in this chapter, a person is in an "intoxicated condition" when he is under the influence of alcohol, a controlled substance, or drug, or any combination thereof.

4. As used in this chapter, the term "law enforcement officer" or "arresting officer" includes the definition of law enforcement officer in subdivision (17) of section 556.061 and military policemen conducting traffic enforcement operations on a federal military installation under military jurisdiction in the state of Missouri.

5. As used in this chapter, "substance abuse traffic offender program" means a program certified by the division of alcohol and drug abuse of the department of mental health to provide education or rehabilitation services pursuant to a professional assessment screening to identify the individual needs of the person who has been referred to the program as the result of an alcohol- or drug-related traffic offense. Successful completion of such a program includes participation in any education or rehabilitation program required to meet the needs identified in the assessment screening. The assignment recommendations based upon such assessment shall be

subject to judicial review as provided in subsection 7 of section 577.041**] the following terms mean:**

(1) "Aggravated offender", a person who has been found guilty of:

(a) Three or more intoxication-related traffic offenses committed on separate occasions; or

(b) Two or more intoxication-related traffic offenses committed on separate occasions where at least one of the intoxication-related traffic offenses is an offense committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vehicle while intoxicated and another person was injured or killed;

(2) "Aggravated boating offender", a person who has been found guilty of:

(a) Three or more intoxication-related boating offenses; or

(b) Has been found guilty of one or more intoxication-related boating offenses committed on separate occasions where at least one of the intoxication-related traffic offenses is an offense committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vessel while intoxicated and another person was injured or killed;

(3) "All-terrain vehicle", any motorized vehicle manufactured and used exclusively for off-highway use which is fifty inches or less in width, with an unladen dry weight of one thousand pounds or less, traveling on three, four or more low pressure tires, with a seat designed to be straddled by the operator, or with a seat designed to carry more than one person, and handlebars for steering control;

(4) "Court", any circuit, associate circuit, or municipal court, including traffic court, but not any juvenile court or drug court;

(5) "Chronic offender", a person who has been found guilty of:

(a) Four or more intoxication-related traffic offenses committed on separate occasions; or

(b) Three or more intoxication-related traffic offenses committed on separate occasions where at least one of the intoxication-related traffic offenses is an offense committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vehicle while intoxicated and another person was injured or killed; or

(c) Two or more intoxication-related traffic offenses committed on separate occasions where both intoxication-related traffic offenses were offenses committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vehicle while intoxicated and another person was injured or killed;

(6) "Chronic boating offender", a person who has been found guilty of:

(a) Four or more intoxication-related boating offenses; or

(b) Three or more intoxication-related boating offenses committed on separate occasions where at least one of the intoxication-related boating offenses is an offense committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vessel while intoxicated and another person was injured or killed; or

(c) Two or more intoxication-related boating offenses committed on separate occasions where both intoxication-related boating offenses were offenses committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vessel while intoxicated and another person was injured or killed;

(7) "Controlled substance", a drug, substance, or immediate precursor in schedules I to V listed in section 195.017;

(8) "Drive", "driving", "operates" or "operating", means physically driving or operating a vehicle or vessel;

(9) "Flight crew member", the pilot in command, copilots, flight engineers, and flight navigators;

(10) "Habitual offender", a person who has been found guilty of:

(a) Five or more intoxication-related traffic offenses committed on separate occasions; or

(b) Four or more intoxication-related traffic offenses committed on separate occasions where at least one of the intoxication-related traffic offenses is an offense committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vehicle while intoxicated and another person was injured or killed; or

(c) Three or more intoxication-related traffic offenses committed on separate occasions where at least two of the intoxication-related traffic offenses were offenses committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vehicle while intoxicated and another person was injured or killed;

(11) "Habitual boating offender", a person who has been found guilty of:

(a) Five or more intoxication-related boating offenses; or

(b) Four or more intoxication-related boating offenses committed on separate occasions where at least one of the intoxication-related boating offenses is an offense committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vessel while intoxicated and another person was injured or killed; or

(c) Three or more intoxication-related boating offenses committed on separate occasions where at least two of the intoxication-related boating offenses were offenses committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vessel while intoxicated and another person was injured or killed;

(12) "Intoxicated" or "intoxicated condition", when a person is under the influence of alcohol, a controlled substance, or drug, or any combination thereof;

(13) "Intoxication-related boating offense", operating a vessel while intoxicated; boating while intoxicated; operating a vessel with excessive blood alcohol content or an offense in which the defendant was operating a vessel while intoxicated and another person was injured or killed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense;

(14) "Intoxication-related traffic offense", driving while intoxicated, driving with excessive blood alcohol content or an offense in which the defendant was operating a vehicle while intoxicated and another person was injured or killed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense;

(15) "Law enforcement officer" or "arresting officer", includes the definition of law enforcement officer in section 556.061 and military policemen conducting traffic enforcement operations on a federal military installation under military jurisdiction in the state of Missouri;

(16) "Operate a vessel", to physically control the movement of a vessel in motion under mechanical or sail power in water;

(17) "Persistent offender", a person who has been found guilty of two or more intoxication-related traffic offenses committed on separate occasions;

(18) "Persistent boating offender", a person who has been found guilty of two or more intoxication-related boating offenses committed on separate occasions;

(19) "Prior offender", a person who has been found guilty of one intoxication-related traffic offense, where such prior offense occurred within five years of the occurrence of the intoxication-related traffic offense for which the person is charged;

(20) "Prior boating offender", a person who has been found guilty of one intoxication-related boating offense, where such prior offense occurred within five years of the occurrence of the intoxication-related boating offense for which the person is charged.]

[577.010. DRIVING WHILE INTOXICATED — SENTENCING RESTRICTIONS. — 1. A person commits the [crime**] offense** of **["]**driving while intoxicated**["]** if he **or she** operates a **[**motor**]** vehicle while in an intoxicated **[**or drugged**]** condition.

2. **The offense of** driving while intoxicated is **[**for the first offense, a class B misdemeanor. No person convicted of or pleading guilty to the offense of driving while intoxicated shall be granted a suspended imposition of sentence for such offense, unless such person shall be placed on probation for a minimum of two years**] :**

(1) A class B misdemeanor;

(2) A class A misdemeanor if:

(a) The defendant is a prior offender; or

(b) A person less than seventeen years of age is present in the vehicle;

(3) A class E felony if:

(a) The defendant is a persistent offender; or

(b) While driving while intoxicated, the defendant acts with criminal negligence to cause physical injury to another person;

(4) A class D felony if:

(a) The defendant is an aggravated offender;

(b) While driving while intoxicated, the defendant acts with criminal negligence to cause physical injury to a law enforcement officer or emergency personnel; or

(c) While driving while intoxicated, the defendant acts with criminal negligence to cause serious physical injury to another person;

(5) A class C felony if:

(a) The defendant is a chronic offender;

(b) While driving while intoxicated, the defendant acts with criminal negligence to cause serious physical injury to a law enforcement officer or emergency personnel; or

(c) While driving while intoxicated, the defendant acts with criminal negligence to cause the death of another person;

(6) A class B felony if:

(a) The defendant is a habitual offender;

(b) While driving while intoxicated, the defendant acts with criminal negligence to cause the death of a law enforcement officer or emergency personnel; or

(c) While driving while intoxicated, the defendant acts with criminal negligence to cause the death of two or more persons unless it is a second or subsequent violation of this subsection, in which case it is a class A felony.

3. Notwithstanding the provisions of subsection 2 of this section, **[**in a circuit where a DWI court or docket created under section 478.007 or other court-ordered treatment program is available, no person who operated a motor vehicle with fifteen-hundredths of one percent or more by weight of alcohol in such person's blood shall be granted a suspended imposition of sentence unless the individual participates and successfully completes a program under such DWI court or docket or other court-ordered treatment program**] a person found guilty of the offense of driving while intoxicated as a first offense shall not be granted a suspended imposition of sentence:**

(1) Unless such person shall be placed on probation for a minimum of two years; or

(2) In a circuit where a DWI court or docket created under section 478.007 or other court-ordered treatment program is available, and where the offense was committed with fifteen-hundredths of one percent or more by weight of alcohol in such person's blood, unless the individual participates and successfully completes a program under such DWI court or docket or other court-ordered treatment program.

4. If a person is not granted a suspended imposition of sentence for the reasons described in subsection 3 of this section **[**for such first offense**]**:

(1) If the individual operated the motor vehicle with fifteen-hundredths to twenty-hundredths of one percent by weight of alcohol in such person's blood, the required term of imprisonment shall be not less than forty-eight hours;

(2) If the individual operated the motor vehicle with greater than twenty-hundredths of one percent by weight of alcohol in such person's blood, the required term of imprisonment shall be not less than five days.

5. A person found guilty of the offense of driving while intoxicated:

(1) As a prior offender, persistent offender, aggravated offender, chronic offender, or habitual offender shall not be granted a suspended imposition of sentence or be sentenced to pay a fine in lieu of a term of imprisonment, section 557.011 to the contrary notwithstanding;

(2) As a prior offender shall not be granted parole or probation until he or she has served a minimum of ten days imprisonment:

(a) Unless as a condition of such parole or probation such person performs at least thirty days of community service under the supervision of the court in those jurisdictions which have a recognized program for community service; or

(b) The offender participates in and successfully completes a program established under section 478.007 or other court-ordered treatment program, if available, and as part of either program, the offender performs at least thirty days of community service under the supervision of the court;

(3) As a persistent offender shall not be eligible for parole or probation until he or she has served a minimum of thirty days imprisonment:

(a) Unless as a condition of such parole or probation such person performs at least sixty days of community service under the supervision of the court in those jurisdictions which have a recognized program for community service; or

(b) The offender participates in and successfully completes a program established under section 478.007 or other court-ordered treatment program, if available, and as part of either program, the offender performs at least sixty days of community service under the supervision of the court;

(4) As an aggravated offender shall not be eligible for parole or probation until he or she has served a minimum of sixty days imprisonment;

(5) As a chronic offender shall not be eligible for parole or probation until he or she has served a minimum of two years imprisonment.]

[577.013. BOATING WHILE INTOXICATED — SENTENCING RESTRICTIONS. — 1. A person commits the offense of boating while intoxicated if he or she operates a vessel while in an intoxicated condition.

2. The offense of boating while intoxicated is:

(1) A class B misdemeanor;

(2) A class A misdemeanor if:

(a) The defendant is a prior boating offender; or

(b) A person less than seventeen years of age is present in the vessel;

(3) A class E felony if:

(a) The defendant is a persistent boating offender; or

(b) While boating while intoxicated, the defendant acts with criminal negligence to cause physical injury to another person;

(4) A class D felony if:

(a) The defendant is an aggravated boating offender;

(b) While boating while intoxicated, the defendant acts with criminal negligence to cause physical injury to a law enforcement officer or emergency personnel; or

(c) While boating while intoxicated, the defendant acts with criminal negligence to cause serious physical injury to another person;

(5) A class C felony if:

(a) The defendant is a chronic boating offender;

(b) While boating while intoxicated, the defendant acts with criminal negligence to cause serious physical injury to a law enforcement officer or emergency personnel; or

(c) While boating while intoxicated, the defendant acts with criminal negligence to cause the death of another person;

(6) A class B felony if:

(a) The defendant is a habitual boating offender;

(b) While boating while intoxicated, the defendant acts with criminal negligence to cause the death of a law enforcement officer or emergency personnel; or

(c) While boating while intoxicated, the defendant acts with criminal negligence to cause the death of two or more persons unless it is a second or subsequent violation of this subsection, in which case it is a class A felony.

3. Notwithstanding the provisions of subsection 2 of this section, a person found guilty of the offense of boating while intoxicated as a first offense shall not be granted a suspended imposition of sentence:

(1) Unless such person shall be placed on probation for a minimum of two years; or

(2) In a circuit where a DWI court or docket created under section 478.007 or other court-ordered treatment program is available, and where the offense was committed with fifteen-hundredths of one percent or more by weight of alcohol in such person's blood, unless the individual participates in and successfully completes a program under such DWI court or docket or other court-ordered treatment program.

4. If a person is not granted a suspended imposition of sentence for the reasons described in subsection 3 of this section:

(1) If the individual operated the vessel with fifteen-hundredths to twenty-hundredths of one percent by weight of alcohol in such person's blood, the required term of imprisonment shall be not less than forty-eight hours;

(2) If the individual operated the vessel with greater than twenty-hundredths of one percent by weight of alcohol in such person's blood, the required term of imprisonment shall be not less than five days.

5. A person found guilty of the offense of boating while intoxicated:

(1) As a prior boating offender, persistent boating offender, aggravated boating offender, chronic boating offender or habitual boating offender shall not be granted a suspended imposition of sentence or be sentenced to pay a fine in lieu of a term of imprisonment, section 557.011 to the contrary notwithstanding;

(2) As a prior boating offender shall not be granted parole or probation until he or she has served a minimum of ten days imprisonment;

(a) Unless as a condition of such parole or probation such person performs at least two hundred forty hours of community service under the supervision of the court in those jurisdictions which have a recognized program for community service; or

(b) The offender participates in and successfully completes a program established under section 478.007 or other court-ordered treatment program, if available;

(3) As a persistent offender shall not be eligible for parole or probation until he or she has served a minimum of thirty days imprisonment:

(a) Unless as a condition of such parole or probation such person performs at least four hundred eighty hours of community service under the supervision of the court in those jurisdictions which have a recognized program for community service; or

(b) The offender participates in and successfully completes a program established under section 478.007 or other court-ordered treatment program, if available;

(4) As an aggravated boating offender shall not be eligible for parole or probation until he or she has served a minimum of sixty days imprisonment;

(5) As a chronic boating offender shall not be eligible for parole or probation until he or she has served a minimum of two years imprisonment.]

[577.020. CHEMICAL TESTS FOR ALCOHOL CONTENT OF BLOOD — CONSENT IMPLIED, WHEN — ADMINISTERED, WHEN, HOW — INFORMATION AVAILABLE TO PERSON TESTED, CONTENTS — VIDEOTAPING OF CHEMICAL OR FIELD SOBRIETY TEST ADMISSIBLE EVIDENCE. — 1. Any person who operates a [motor] vehicle upon the public highways of this state**, a vessel, or any aircraft, or acts as a flight crew member of an aircraft** shall be deemed to have given consent **[**to**]**, subject to the provisions of sections 577.019 to 577.041**, to** a chemical test or tests of the person's breath, blood, saliva**,** or urine for the purpose of determining the alcohol or drug content of the person's blood pursuant to the following circumstances:

(1) If the person is arrested for any offense arising out of acts which the arresting officer had reasonable grounds to believe were committed while the person was **[**driving a motor**] operating a** vehicle **or a vessel** while in an intoxicated **[**or drugged**]** condition; **[**or**]**

(2) **If the person is detained for any offense of operating an aircraft while intoxicated under section 577.015 or operating an aircraft with excessive blood alcohol content under section 577.016;**

(3) If the person is under the age of twenty-one, has been stopped by a law enforcement officer, and the law enforcement officer has reasonable grounds to believe that such person was **[**driving a motor**] operating a** vehicle **or a vessel** with a blood alcohol content of two-hundredths of one percent or more by weight; **[**or**]**

[(3)**] (4)** If the person is under the age of twenty-one, has been stopped by a law enforcement officer, and the law enforcement officer has reasonable grounds to believe that such person has committed a violation of the traffic laws of the state, or any political subdivision of the state, and such officer has reasonable grounds to believe,

after making such stop, that such person has a blood alcohol content of two-hundredths of one percent or greater;

[(4)**] (5)** If the person is under the age of twenty-one, has been stopped at a sobriety checkpoint or roadblock and the law enforcement officer has reasonable grounds to believe that such person has a blood alcohol content of two-hundredths of one percent or greater; **or**

[(5)**] (6)** If the person, while operating a **[**motor**]** vehicle, has been involved in a **[**motor vehicle**]** collision **or accident** which resulted in a fatality or a readily apparent serious physical injury as defined in section 565.002, or has been arrested as evidenced by the issuance of a uniform traffic ticket for the violation of any state law or county or municipal ordinance with the exception of equipment violations contained in **[**chapter**] chapters** 306 **and 307**, or similar provisions contained in county or municipal ordinances**[**; or**] .**

[(6) If the person, while operating a motor vehicle, has been involved in a motor vehicle collision which resulted in a fatality or serious physical injury as defined in section 565.002.**]**

The test shall be administered at the direction of the law enforcement officer whenever the person has been **[**arrested or**]** stopped**, detained, or arrested** for any reason.

2. The implied consent to submit to the chemical tests listed in subsection 1 of this section shall be limited to not more than two such tests arising from the same **stop, detention,** arrest, incident or charge.

3. **To be considered valid,** chemical analysis of the person's breath, blood, saliva, or urine **[**to be considered valid pursuant to the provisions of sections 577.019 to 577.041**]** shall be performed**,** according to methods approved by the state department of health and senior services**,** by licensed medical personnel or by a person possessing a valid permit issued by the state department of health and senior services for this purpose.

4. The state department of health and senior services shall approve satisfactory techniques, devices, equipment, or methods to be **[**considered valid**] used in the chemical test** pursuant to the provisions of sections 577.019 to 577.041 **[**and**] . The department** shall **also** establish standards to ascertain the qualifications and competence of individuals to conduct **such** analyses and **[**to**]** issue permits which shall be subject to termination or revocation by the state department of health and senior services.

5. The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person at the choosing and expense of the person to be tested, administer a test in addition to any administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test taken at the direction of a law enforcement officer.

6. Upon the request of the person who is tested, full information concerning the test shall be made available to such person. Full information is limited to the following:

(1) The type of test administered and the procedures followed;

(2) The time of the collection of the blood **[**or**] ,** breath **[**sample**] ,** or urine **sample** analyzed;

(3) The numerical results of the test indicating the alcohol content of the blood and breath and urine;

(4) The type and status of any permit which was held by the person who performed the test;

(5) If the test was administered by means of a breath-testing instrument, the date **[**of performance**]** of the most recent **[**required**]** maintenance of such instrument. Full information does not include manuals, schematics, or software of the instrument used to test the person or any other material that is not in the actual possession of the state. Additionally, full information does not include information in the possession of the manufacturer of the test instrument.

7. Any person given a chemical test of the person's breath pursuant to subsection 1 of this section or a field sobriety test may be videotaped during any such test at the direction of the law enforcement officer. Any such video recording made during the chemical test pursuant to this subsection or a field sobriety test shall be admissible as evidence at **[**either**]** any trial of such person for **[**either**]** a violation of any state law or county or municipal ordinance, **[**or**] and at** any license revocation or suspension proceeding **held** pursuant to the provisions of chapter 302.**]**

[577.037. CHEMICAL TESTS, RESULTS ADMITTED INTO EVIDENCE, WHEN, EFFECT OF. — 1. Upon the trial of any person for [violation of any of the provisions of section 565.024, or section 565.060, or section 577.010 or 577.012, or upon the trial of any criminal action**] any criminal offense** or violations of county or municipal ordinances**,** or in any license suspension or revocation proceeding pursuant to the provisions of chapter 302**,** arising out of acts alleged to have been committed by any person while **[**driving**] operating** a motor vehicle**, vessel, or aircraft, or acting as a flight crew member of any aircraft,** while in an intoxicated condition **or with an excessive blood alcohol content**, the amount of alcohol in the person's blood at the time of the act **[**alleged**] ,** as shown by any chemical analysis of the person's blood, breath, saliva**,** or urine**,** is admissible in evidence and the provisions of subdivision (5) of section 491.060 shall not prevent the admissibility or introduction of such evidence if otherwise admissible. **[**If there was eight-hundredths of one percent or more by weight of alcohol in the person's blood, this shall be prima facie evidence that the person was intoxicated at the time the specimen was taken.**]**

2. **If a chemical analysis of the defendant's breath, blood, saliva, or urine demonstrates there was eight-hundredths of one percent or more by weight of alcohol in the person's blood, this shall be prima facie evidence that the person was intoxicated at the time the specimen was taken. If a chemical analysis of the defendant's breath, blood, saliva, or urine demonstrates that there was less than eight-hundredths of one percent of alcohol in the defendant's blood, any charge alleging a criminal offense related to the operation of a vehicle, vessel, or aircraft while in an intoxicated condition or with an excessive blood alcohol content shall be dismissed with prejudice unless one or more of the following considerations cause the court to find a dismissal unwarranted:**

(1) There is evidence that the chemical analysis is unreliable as evidence of the defendant's intoxication at the time of the alleged violation due to the lapse of time between the alleged violation and the obtaining of the specimen;

(2) There is evidence that the defendant was under the influence of a controlled substance, or drug, or a combination of either or both with or without alcohol; or

(3) There is substantial evidence of intoxication from physical observations of witnesses or admissions of the defendant.

3. Percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred milliliters of blood or grams of alcohol per two hundred ten liters of breath.

[3.**] 4.** The foregoing provisions of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question **of** whether the person was intoxicated.

[4.**]** **5.** A chemical analysis of a person's breath, blood, saliva or urine, in order to give rise to the presumption or to have the effect provided for in subsection **[**1**]** **2** of this section, shall have been performed as provided in sections 577.020 to 577.041 and in accordance with methods and standards approved by the state department of health and senior services.

[5. Any charge alleging a violation of section 577.010 or 577.012 or any county or municipal ordinance prohibiting driving while intoxicated or driving under the influence of alcohol shall be dismissed with prejudice if a chemical analysis of the defendant's breath, blood, saliva, or urine performed in accordance with sections 577.020 to 577.041 and rules promulgated thereunder by the state department of health and senior services demonstrate that there was less than eight-hundredths of one percent of alcohol in the defendant's blood unless one or more of the following considerations cause the court to find a dismissal unwarranted:

(1) There is evidence that the chemical analysis is unreliable as evidence of the defendant's intoxication at the time of the alleged violation due to the lapse of time between the alleged violation and the obtaining of the specimen;

(2) There is evidence that the defendant was under the influence of a controlled substance, or drug, or a combination of either or both with or without alcohol; or

(3) There is substantial evidence of intoxication from physical observations of witnesses or admissions of the defendant.**]]**

[577.041. REFUSAL TO SUBMIT TO CHEMICAL TEST — ADMISSIBILITY — REQUEST TO INCLUDE REASONS AND EFFECT OF REFUSAL. — 1. If a person [under arrest, or who has been stopped pursuant to**]** **detained, stopped, or arrested under** subdivision **[**(2) or**]** (3) **or (4)** of subsection 1 of section 577.020, refuses upon the request of the officer to submit to any test allowed pursuant to section 577.020, then evidence of the refusal shall be admissible in **[**a**]** **any** proceeding **[**pursuant to section 565.024, 565.060, or 565.082, or section 577.010 or 577.012**]** **related to the acts resulting in such detention, stop, or arrest**.

2. The request of the officer **to submit to any chemical test** shall include the reasons of the officer for requesting the person to submit to a test and also shall inform the person that evidence of refusal to take the test may be used against such person **[**and that the person's**]** **. If such person was operating a vehicle prior to such detention, stop, or arrest, he or she shall further be informed that his or her** license shall be immediately revoked upon refusal to take the test.

3. If a person when requested to submit to any test allowed pursuant to section 577.020 requests to speak to an attorney, the person shall be granted twenty minutes in which to attempt to contact an attorney. If**,** upon the completion of the twenty-minute period the person continues to refuse to submit to any test, it shall be deemed a refusal. **[**In this event, the officer shall, on behalf of the director of revenue, serve the notice of license revocation personally upon the person and shall take possession of any license to operate a motor vehicle issued by this state which is held by that person. The officer shall issue a temporary permit, on behalf of the director of revenue, which is valid for fifteen days and shall also give the person a notice of such person's right to file a petition for review to contest the license revocation.

2. The officer shall make a certified report under penalties of perjury for making a false statement to a public official. The report shall be forwarded to the director of revenue and shall include the following:

(1) That the officer has:

(a) Reasonable grounds to believe that the arrested person was driving a motor vehicle while in an intoxicated or drugged condition; or

(b) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more by weight; or

(c) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was committing a violation of the traffic laws of the state, or political subdivision of the state, and such officer has reasonable grounds to believe, after making such stop, that the person had a blood alcohol content of two-hundredths of one percent or greater;

(2) That the person refused to submit to a chemical test;

(3) Whether the officer secured the license to operate a motor vehicle of the person;

(4) Whether the officer issued a fifteen-day temporary permit;

(5) Copies of the notice of revocation, the fifteen-day temporary permit and the notice of the right to file a petition for review, which notices and permit may be combined in one document; and

(6) Any license to operate a motor vehicle which the officer has taken into possession.

3. Upon receipt of the officer's report, the director shall revoke the license of the person refusing to take the test for a period of one year; or if the person is a nonresident, such person's operating permit or privilege shall be revoked for one year; or if the person is a resident without a license or permit to operate a motor vehicle in this state, an order shall be issued denying the person the issuance of a license or permit for a period of one year.

4. If a person's license has been revoked because of the person's refusal to submit to a chemical test, such person may petition for a hearing before a circuit division or associate division of the court in the county in which the arrest or stop occurred. The person may request such court to issue an order staying the revocation until such time as the petition for review can be heard. If the court, in its discretion, grants such stay, it shall enter the order upon a form prescribed by the director of revenue and shall send a copy of such order to the director. Such order shall serve as proof of the privilege to operate a motor vehicle in this state and the director shall maintain possession of the person's license to operate a motor vehicle until termination of any revocation pursuant to this section. Upon the person's request the clerk of the court shall notify the prosecuting attorney of the county and the prosecutor shall appear at the hearing on behalf of the director of revenue. At the hearing the court shall determine only:

(1) Whether or not the person was arrested or stopped;

(2) Whether or not the officer had:

(a) Reasonable grounds to believe that the person was driving a motor vehicle while in an intoxicated or drugged condition; or

(b) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more by weight; or

(c) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was committing a violation of the traffic laws of the state, or political subdivision of the state, and such officer had reasonable grounds to believe, after making such stop, that the person had a blood alcohol content of two-hundredths of one percent or greater; and

(3) Whether or not the person refused to submit to the test.

5. If the court determines any issue not to be in the affirmative, the court shall order the director to reinstate the license or permit to drive.

6. Requests for review as provided in this section shall go to the head of the docket of the court wherein filed.

7. No person who has had a license to operate a motor vehicle suspended or revoked pursuant to the provisions of this section shall have that license reinstated until such person has participated in and successfully completed a substance abuse traffic offender program defined in section 577.001, or a program determined to be comparable by the department of mental health or the court. Assignment recommendations, based upon the needs assessment as described in subdivision (24) of section 302.010, shall be delivered in writing to the person with written notice that the person is entitled to have such assignment recommendations reviewed by the court if the person objects to the recommendations. The person may file a motion in the associate division of the circuit court of the county in which such assignment was given, on a printed form provided by the state courts administrator, to have the court hear and determine such motion pursuant to the provisions of chapter 517. The motion shall name the person or entity making the needs assessment as the respondent and a copy of the motion shall be served upon the respondent in any manner allowed by law. Upon hearing the motion, the court may modify or waive any assignment recommendation that the court determines to be unwarranted based upon a review of the needs assessment, the person's driving record, the circumstances surrounding the offense, and the likelihood of the person committing a like offense in the future, except that the court may modify but may not waive the assignment to an education or rehabilitation program of a person determined to be a prior or persistent offender as defined in section 577.023, or of a person determined to have operated a motor vehicle with fifteen-hundredths of one percent or more by weight in such person's blood. Compliance with the court determination of the motion shall satisfy the provisions of this section for the purpose of reinstating such person's license to operate a motor vehicle. The respondent's personal appearance at any hearing conducted pursuant to this subsection shall not be necessary unless directed by the court.

8. The fees for the substance abuse traffic offender program, or a portion thereof to be determined by the division of alcohol and drug abuse of the department of mental health, shall be paid by the person enrolled in the program. Any person who is enrolled in the program shall pay, in addition to any fee charged for the program, a supplemental fee to be determined by the department of mental health for the purposes of funding the substance abuse traffic offender program defined in section 302.010 and section 577.001. The administrator of the program shall remit to the division of alcohol and drug abuse of the department of mental health on or before the fifteenth day of each month the supplemental fee for all persons enrolled in the program, less two percent for administrative costs. Interest shall be charged on any unpaid balance of the supplemental fees due the division of alcohol and drug abuse pursuant to this section and shall accrue at a rate not to exceed the annual rates established pursuant to the provisions of section 32.065, plus three percentage points. The supplemental fees and any interest received by the department of mental health pursuant to this section shall be deposited in the mental health earnings fund which is created in section 630.053.

9. Any administrator who fails to remit to the division of alcohol and drug abuse of the department of mental health the supplemental fees and interest for all persons enrolled in the program pursuant to this section shall be subject to a penalty equal to the amount of interest accrued on the supplemental fees due the division pursuant to this section. If the supplemental fees, interest, and penalties are not remitted to the division of alcohol and drug abuse of the department of mental health within six months of the due date, the attorney general of the state of Missouri shall initiate appropriate action of the collection of said fees and interest accrued. The court shall assess attorney fees and court costs against any delinquent program.

10. Any person who has had a license to operate a motor vehicle revoked under this section and who has a prior alcohol-related enforcement contact, as defined in section 302.525, shall be required to file proof with the director of revenue that any motor vehicle operated by the person is equipped with a functioning, certified ignition interlock device as a required condition of license reinstatement. Such ignition interlock device shall further be required to be maintained on all motor vehicles operated by the person for a period of not less than six months immediately following the date of reinstatement. If the monthly monitoring reports show that the ignition interlock device has registered any confirmed blood alcohol concentration readings above the alcohol setpoint established by the department of transportation or that the person has tampered with or circumvented the ignition interlock device, then the period for which the person must maintain the ignition interlock device following the date of reinstatement shall be extended for an additional six months. If the person fails to maintain such proof with the director as required by this section, the license shall be rerevoked and the person shall be guilty of a class A misdemeanor.

11. The revocation period of any person whose license and driving privilege has been revoked under this section and who has filed proof of financial responsibility with the department of revenue in accordance with chapter 303 and is otherwise eligible, shall be terminated by a notice from the director of revenue after one year from the effective date of the revocation. Unless proof of financial responsibility is filed with the department of revenue, the revocation shall remain in effect for a period of two years from its effective date. If the person fails to maintain proof of financial responsibility in accordance with chapter 303, the person's license and driving privilege shall be rerevoked and the person shall be guilty of a class A misdemeanor.**]]**

[579.060. UNLAWFUL SALE, DISTRIBUTION, OR PURCHASE OF OVER-THE-COUNTER METHAMPHETAMINE PRECURSOR DRUGS — VIOLATION, PENALTY. — 1. A person commits the offense of unlawful sale or distribution of over-the-counter methamphetamine precursor drugs if he or she:

(1) Knowingly sells, distributes, dispenses, or otherwise provides any number of packages of any drug product containing detectable amounts of ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts, optical isomers, or salts of optical isomers, in a total amount greater than nine grams to the same individual within a thirty-day period, unless the amount is dispensed, sold, or distributed pursuant to a valid prescription; or

(2) Knowingly dispenses or offers drug products that are not excluded from Schedule V in subsection 17 or 18 of section 195.017 and that contain detectable amounts of ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts, optical isomers, or salts of optical isomers, without ensuring that such products are located behind a pharmacy counter where the public is not permitted and that such products are dispensed by a registered pharmacist or pharmacy technician under subsection 11 of section 195.017; or

(3) Holds a retail sales license issued under chapter 144 and knowingly sells or dispenses packages that do not conform to the packaging requirements of section 195.418.

2. A pharmacist, intern pharmacist, or registered pharmacy technician commits the offense of unlawful sale or distribution of over-the-counter methamphetamine precursor drugs if he or she:

(1) Knowingly sells, distributes, dispenses, or otherwise provides any number of packages of any drug product containing detectable amounts of ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts or optical isomers, or salts of optical isomers, in a total amount greater than three

and six-tenth grams to the same individual within a twenty-four hour period, unless the amount is dispensed, sold, or distributed pursuant to a valid prescription; or

(2) Knowingly fails to submit information under subsection 13 of section 195.017 and subsection 5 of section 195.417 about the sales of any compound, mixture, or preparation of products containing detectable amounts of ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts, optical isomers, or salts of optical isomers, in accordance with transmission methods and frequency established by the department of health and senior services; or

(3) Knowingly fails to implement and maintain an electronic log, as required by subsection 12 of section 195.017, of each transaction involving any detectable quantity of pseudoephedrine, its salts, isomers, or salts of optical isomers or ephedrine, its salts, optical isomers, or salts of optical isomers; or

(4) Knowingly sells, distributes, dispenses or otherwise provides to an individual under eighteen years of age without a valid prescription any number of packages of any drug product containing any detectable quantity of pseudoephedrine, its salts, isomers, or salts of optical isomers, or ephedrine, its salts or optical isomers, or salts of optical isomers.

3. Any person who violates the packaging requirements of section 195.418 and is considered the general owner or operator of the outlet where ephedrine, pseudoephedrine, or phenylpropanolamine products are available for sale shall not be penalized if he or she documents that an employee training program was in place to provide the employee who made the unlawful retail sale with information on the state and federal regulations regarding ephedrine, pseudoephedrine, or phenylpropanolamine.

4. The offense of unlawful sale or distribution of over-the-counter methamphetamine precursor drugs is a class A misdemeanor.]

[[195.130.] 579.105. KEEPING OR MAINTAINING A PUBLIC NUISANCE — VIOLATION, PENALTY.. — 1. **[**Any room, building, structure or inhabitable structure as defined in section 569.010 which is used for the illegal use, keeping or selling of controlled substances is a "public nuisance". No person shall keep or maintain such a public nuisance.

2. The attorney general, circuit attorney or prosecuting attorney may, in addition to any criminal prosecutions, prosecute a suit in equity to enjoin the public nuisance. If the court finds that the owner of the room, building, structure or inhabitable structure knew that the premises were being used for the illegal use, keeping or selling of controlled substances, the court may order that the premises shall not be occupied or used for such period as the court may determine, not to exceed one year.

3. All persons, including owners, lessees, officers, agents, inmates or employees, aiding or facilitating such a nuisance may be made defendants in any suit to enjoin the nuisance.

4. It is unlawful for a person to keep or maintain such a public nuisance.**]**
A person commits the offense of keeping or maintaining a public nuisance if he or she knowingly keeps or maintains:

(1) Any room, building, structure or inhabitable structure, as defined in section 556.061, which is used for the illegal manufacture, distribution, storage, or sale of any amount of a controlled substance, except thirty-five grams or less of marijuana or thirty-five grams or less of any synthetic cannabinoid; or

(2) Any room, building, structure or inhabitable structure, as defined in section 556.061, where on three or more separate occasions within the period of a year, two or more persons, who were not residents of the room, building,

structure, or inhabitable structure, gathered for the principal purpose of unlawfully ingesting, injecting, inhaling or using any amount of a controlled substance, except thirty-five grams or less of marijuana or thirty-five grams or less of any synthetic cannabinoid.

2. In addition to any other criminal prosecutions, the prosecuting attorney or circuit attorney may by information or indictment charge the owner or the occupant, or both the owner and the occupant of the room, building, structure, or inhabitable structure with the **[**crime**]** **offense** of keeping or maintaining a public nuisance. **[**Keeping or maintaining a public nuisance is a class C felony.**]**

3. The offense of keeping or maintaining a public nuisance is a class E felony.

[5.**]** **4.** Upon the conviction of the owner pursuant to subsection **[**4**]** **2** of this section, the room, building, structure, or inhabitable structure is subject to the provisions of sections 513.600 to 513.645.**]**

SECTION B. DELAYED EFFECTIVE DATE. — The repeal and reenactment of sections 160.261, 167.115, 167.171, 188.030, 210.117, 211.038, 217.010, 217.703, 260.211, 260.212, 476.055, 556.061, 558.019, 559.036, 559.106, 559.115, 559.633, 565.002, 565.073, 566.147, 566.148, 566.149, 577.001, 577.010, 577.020, 577.037, and 577.041, the enactment of sections 197.1036, 545.940, 577.013, 579.060, and 579.105, and the first appearance of the repeal of sections 195.130, 476.055, 566.135, and 660.315 of this act shall become effective on January 1, 2017.

Approved July 8, 2014

HB 1372 [HB 1372]

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

Prohibits protest activities at funeral services

AN ACT to repeal sections 578.501, 578.502, and 578.503, RSMo, and to enact in lieu thereof one new section relating to protest activities at funeral services, with penalty provisions.

SECTION
A. Enacting clause.
574.160. Unlawful funeral protest, offense of — definitions — violation, penalty.
578.501. Funeral protests prohibited, when — citation of law — definitions.
578.502. Funeral protests prohibited, when — funeral defined.
578.503. Contingent effective date.

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

SECTION A. ENACTING CLAUSE. — Sections 578.501, 578.502, and 578.503, RSMo, are repealed and one new section enacted in lieu thereof, to be known as section 574.160, to read as follows:

574.160. UNLAWFUL FUNERAL PROTEST, OFFENSE OF — DEFINITIONS — VIOLATION, PENALTY. — 1. A person commits the offense of unlawful funeral protest if he or she pickets or engages in other protest activities within three hundred feet of any residence, cemetery, funeral home, church, synagogue, or other establishment during or within one

hour before or one hour after the conducting of any actual funeral or burial service at that place.

2. For purposes of this section, "other protest activities" means any action that is disruptive or undertaken to disrupt or disturb a funeral or burial service.

3. For purposes of this section, "funeral" and "burial service" mean the ceremonies and memorial services held in conjunction with the burial or cremation of the dead, but this section does not apply to processions while they are in transit beyond any three hundred foot zone that is established under subsection 1 of this section.

4. The offense of unlawful funeral protest is a class B misdemeanor, unless committed by a person who has previously been found guilty of a violation of this section, in which case it is a class A misdemeanor.

[578.501. FUNERAL PROTESTS PROHIBITED, WHEN — CITATION OF LAW — DEFINITIONS. — 1. This section shall be known as "Spc. Edward Lee Myers' Law".

2. It shall be unlawful for any person to engage in picketing or other protest activities in front of or about any location at which a funeral is held, within one hour prior to the commencement of any funeral, and until one hour following the cessation of any funeral. Each day on which a violation occurs shall constitute a separate offense. Violation of this section is a class B misdemeanor, unless committed by a person who has previously pled guilty to or been found guilty of a violation of this section, in which case the violation is a class A misdemeanor.

3. For the purposes of this section, "funeral" means the ceremonies, processions and memorial services held in connection with the burial or cremation of the dead.**]**

[578.502. FUNERAL PROTESTS PROHIBITED, WHEN — FUNERAL DEFINED. — 1. This section shall be known as "Spc. Edward Lee Myers' Law".

2. It shall be unlawful for any person to engage in picketing or other protest activities within three hundred feet of or about any location at which a funeral is held, within one hour prior to the commencement of any funeral, and until one hour following the cessation of any funeral. Each day on which a violation occurs shall constitute a separate offense. Violation of this section is a class B misdemeanor, unless committed by a person who has previously pled guilty to or been found guilty of a violation of this section, in which case the violation is a class A misdemeanor.

3. For purposes of this section, "funeral" means the ceremonies, processions, and memorial services held in connection with the burial or cremation of the dead.**]**

[578.503. CONTINGENT EFFECTIVE DATE. — The enactment of section 578.502 shall become effective only on the date the provisions of section 578.501 are finally declared void or unconstitutional by a court of competent jurisdiction and upon notification by the attorney general to the revisor of statutes.**]**

Approved June 20, 2014

HB 1376 [HCS HB 1376]

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

Changes the law regarding secured transactions under the Uniform Commercial Code

AN ACT to repeal sections 400.9-102, 400.9-105, 400.9-311, 400.9-317, 400.9-326, 400.9-503, 400.9-507, 400.9-516, 400.9-607, 400.9-802, 400.9-805, 400.9-806, and 400.2A-103, RSMo, and to enact in lieu thereof thirteen new sections relating to secured transactions.

SECTION
A. Enacting clause.
400.9-102. Definitions and index of definitions.
400.9-105. Control of electronic chattel paper.
400.9-311. Perfection of security interests in property subject to certain statutes, regulations, and treaties.
400.9-317. Interests that take priority over or take free of security interest or agricultural lien.
400.9-326. Priority of security interests created by new debtor.
400.9-503. Name of debtor and secured party.
400.9-507. Effect of certain events on effectiveness of financing statement.
400.9-516. What constitutes filing — effectiveness of filing.
400.9-607. Collection and enforcement by secured party.
400.9-802. Savings clause.
400.9-805. Effectiveness of action taken before effective date.
400.9-806. When initial financing statement suffices to continue effectiveness of financing statement.
400.2A-103. Definitions and index of definitions.

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

SECTION A. ENACTING CLAUSE. — Sections 400.9-102, 400.9-105, 400.9-311, 400.9-317, 400.9-326, 400.9-503, 400.9-507, 400.9-516, 400.9-607, 400.9-802, 400.9-805, 400.9-806, and 400.2A-103, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 400.9-102, 400.9-105, 400.9-311, 400.9-317, 400.9-326, 400.9-503, 400.9-507, 400.9-516, 400.9-607, 400.9-802, 400.9-805, 400.9-806, and 400.2A-103, to read as follows:

400.9-102. DEFINITIONS AND INDEX OF DEFINITIONS. — (a) In this article:

(1) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost;

(2) "Account", except as used in "account for", means a right to payment of a monetary obligation, whether or not earned by performance, (i) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (ii) for services rendered or to be rendered, (iii) for a policy of insurance issued or to be issued, (iv) for a secondary obligation incurred or to be incurred, (v) for energy provided or to be provided, (vi) for the use or hire of a vessel under a charter or other contract, (vii) arising out of the use of a credit or charge card or information contained on or for use with the card, or (viii) as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state. The term includes health-care-insurance receivables. The term does not include (i) rights to payment evidenced by chattel paper or an instrument, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment property, (v) letter-of-credit rights or letters of credit, or (vi) rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card;

(3) "Account debtor" means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper;

(4) "Accounting", except as used in "accounting for", means a record:

(A) Authenticated by a secured party;

(B) Indicating the aggregate unpaid secured obligations as of a date not more than thirty-five days earlier or thirty-five days later than the date of the record; and

(C) Identifying the components of the obligations in reasonable detail;

(5) "Agricultural lien" means an interest, other than a security interest, in farm products:

(A) Which secures payment or performance of an obligation for:

(i) Goods or services furnished in connection with a debtor's farming operation; or

(ii) Rent on real property leased by a debtor in connection with its farming operation;

(B) Which is created by statute in favor of a person that:

(i) In the ordinary course of its business furnished goods or services to a debtor in connection with a debtor's farming operation; or

(ii) Leased real property to a debtor in connection with the debtor's farming operation; and

(C) Whose effectiveness does not depend on the person's possession of the personal property;

(6) "As-extracted collateral" means:

(A) Oil, gas, or other minerals that are subject to a security interest that:

(i) Is created by a debtor having an interest in the minerals before extraction; and

(ii) Attaches to the minerals as extracted; or

(B) Accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction;

(7) "Authenticate" means:

(A) To sign; or

(B) With the present intent to adopt or accept a record, to attach to or logically associate with the record an electronic sound, symbol or process;

(8) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies;

(9) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like;

(10) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. The term includes another record maintained as an alternative to a certificate of title by the governmental unit that issues certificates of title if a statute permits the security interest in question to be indicated on the record as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral;

(11) "Chattel paper" means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this paragraph, "monetary obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods. The term does not include (i) charters or other contracts involving the use or hire of a vessel or (ii) records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card. If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper;

(12) "Collateral" means the property subject to a security interest or agricultural lien. The term includes:

(A) Proceeds to which a security interest attaches;

(B) Accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and

(C) Goods that are the subject of a consignment;

(13) "Commercial tort claim" means a claim arising in tort with respect to which:

(A) The claimant is an organization; or

(B) The claimant is an individual and the claim:

(i) Arose in the course of the claimant's business or profession; and

(ii) Does not include damages arising out of personal injury to or the death of an individual;

(14) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer;

(15) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:

(A) Traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or

(B) Traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer;

(16) "Commodity customer" means a person for which a commodity intermediary carries a commodity contract on its books;

(17) "Commodity intermediary" means a person that:

(A) Is registered as a futures commission merchant under federal commodities law; or

(B) In the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law;

(18) "Communicate" means:

(A) To send a written or other tangible record;

(B) To transmit a record by any means agreed upon by the persons sending and receiving the record; or

(C) In the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule;

(19) "Consignee" means a merchant to which goods are delivered in a consignment;

(20) "Consignment" means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:

(A) The merchant:

(i) Deals in goods of that kind under a name other than the name of the person making delivery;

(ii) Is not an auctioneer; and

(iii) Is not generally known by its creditors to be substantially engaged in selling the goods of others;

(B) With respect to each delivery, the aggregate value of the goods is one thousand dollars or more at the time of delivery;

(C) The goods are not consumer goods immediately before delivery; and

(D) The transaction does not create a security interest that secures an obligation;

(21) "Consignor" means a person that delivers goods to a consignee in a consignment;

(22) "Consumer debtor" means a debtor in a consumer transaction;

(23) "Consumer goods" means goods that are used or bought for use primarily for personal, family, or household purposes;

(24) "Consumer-goods transaction" means a consumer transaction in which:

(A) An individual incurs an obligation primarily for personal, family, or household purposes; and

(B) A security interest in consumer goods secures the obligation;

(25) "Consumer obligor" means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family, or household purposes;

(26) "Consumer transaction" means a transaction in which (i) an individual incurs an obligation primarily for personal, family, or household purposes, (ii) a security interest secures the obligation, and (iii) the collateral is held or acquired primarily for personal, family, or household purposes. The term includes consumer-goods transactions;

(27) "Continuation statement" means an amendment of a financing statement which:

(A) Identifies, by its file number, the initial financing statement to which it relates; and

(B) Indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement;

(28) "Debtor" means:

(A) A person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;

(B) A seller of accounts, chattel paper, payment intangibles, or promissory notes; or

(C) A consignee;

(29) "Deposit account" means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument;

(30) "Document" means a document of title or a receipt of the type described in section 400.7-201(2);

(31) "Electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium;

(32) "Encumbrance" means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property;

(33) "Equipment" means goods other than inventory, farm products, or consumer goods;

(34) "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:

(A) Crops grown, growing, or to be grown, including:

(i) Crops produced on trees, vines, and bushes; and

(ii) Aquatic goods produced in aquacultural operations;

(B) Livestock, born or unborn, including aquatic goods produced in aquacultural operations;

(C) Supplies used or produced in a farming operation; or

(D) Products of crops or livestock in their unmanufactured states;

(35) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation;

(36) "File number" means the number assigned to an initial financing statement pursuant to section 400.9-519(a);

(37) "Filing office" means an office designated in section 400.9-501 as the place to file a financing statement;

(38) "Filing-office rule" means a rule adopted pursuant to section 400.9-526;

(39) "Financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement;

(40) "Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying section 400.9-502(a) and (b). The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures;

(41) "Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law;

(42) "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes payment intangibles and software;

(43) "Good faith" means honesty in fact;

(44) "Goods" means all things that are movable when a security interest attaches. The term includes (i) fixtures, (ii) standing timber that is to be cut and removed under a conveyance or contract for sale, (iii) the unborn young of animals, (iv) crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes, and (v) manufactured homes. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if (i) the program is associated with the goods in such a manner that it customarily is considered part of the goods, or (ii) by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments,

investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction;

(45) "Governmental unit" means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a state, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States;

(46) "Health-care-insurance receivable" means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health-care goods or services provided or to be provided;

(47) "Instrument" means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in ordinary course of business is transferred by delivery with any necessary indorsement or assignment. The term does not include (i) investment property, (ii) letters of credit, or (iii) writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card;

(48) "Inventory" means goods, other than farm products, which:

(A) Are leased by a person as lessor;

(B) Are held by a person for sale or lease or to be furnished under a contract of service;

(C) Are furnished by a person under a contract of service; or

(D) Consist of raw materials, work in process, or materials used or consumed in a business;

(49) "Investment property" means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account;

(50) "Jurisdiction of organization", with respect to a registered organization, means the jurisdiction under whose law the organization is formed or organized;

(51) "Letter-of-credit right" means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit;

(52) "Lien creditor" means:

(A) A creditor that has acquired a lien on the property involved by attachment, levy, or the like;

(B) An assignee for benefit of creditors from the time of assignment;

(C) A trustee in bankruptcy from the date of the filing of the petition; or

(D) A receiver in equity from the time of appointment;

(53) "Manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code;

(54) "Manufactured-home transaction" means a secured transaction:

(A) That creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or

(B) In which a manufactured home, other than a manufactured home held as inventory, is the primary collateral;

(55) "Mortgage" means a consensual interest in real property, including fixtures, which secures payment or performance of an obligation;

(56) "New debtor" means a person that becomes bound as debtor under section 400.9-203(d) by a security agreement previously entered into by another person;

(57) "New value" means (i) money, (ii) money's worth in property, services, or new credit, or (iii) release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation;

(58) "Noncash proceeds" means proceeds other than cash proceeds;

(59) "Obligor" means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral, (i) owes payment or other performance of the obligation, (ii) has provided property other than the collateral to secure payment or other performance of the obligation, or (iii) is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include issuers or nominated persons under a letter of credit;

(60) "Original debtor", except as used in section 400.9-310(c), means a person that, as debtor, entered into a security agreement to which a new debtor has become bound under section 400.9-203(d);

(61) "Payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation;

(62) "Person related to", with respect to an individual, means:

(A) The spouse of the individual;

(B) A brother, brother-in-law, sister, or sister-in-law of the individual;

(C) An ancestor or lineal descendant of the individual or the individual's spouse; or

(D) Any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual;

(63) "Person related to", with respect to an organization, means:

(A) A person directly or indirectly controlling, controlled by, or under common control with the organization;

(B) An officer or director of, or a person performing similar functions with respect to, the organization;

(C) An officer or director of, or a person performing similar functions with respect to, a person described in subparagraph (A);

(D) The spouse of an individual described in subparagraph (A), (B), or (C); or

(E) An individual who is related by blood or marriage to an individual described in subparagraph (A), (B), (C), or (D) and shares the same home with the individual;

(64) "Proceeds", except as used in section 400.9-609(b), means the following property:

(A) Whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;

(B) Whatever is collected on, or distributed on account of, collateral;

(C) Rights arising out of collateral;

(D) To the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or

(E) To the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral;

(65) "Promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds;

(66) "Proposal" means a record authenticated by a secured party which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to sections 400.9-620, 400.9-621 and 400.9-622;

(67) "Public organic record" means a record that is available to the public for inspection and is:

(A) A record consisting of the record initially filed with or issued by a state or the United States to form or organize an organization and any record filed with or issued by the state or the United States which amends or restates the initial record;

(B) An organic record of a business trust consisting of the record initially filed with a state and any record filed with the state which amends or restates the initial record, if a statute of the state governing business trusts requires that the record be filed with the state; or

(C) A record consisting of legislation enacted by the legislature of a state or the Congress of the United States which forms or organizes an organization, any record amending the legislation, and any record filed with or issued by the state or the United States which amends or restates the name of the organization;

(68) "Pursuant to commitment", with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation;

(69) "Record", except as used in "for record", "of record", "record or legal title", and "record owner", means information that is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form;

(70) "Registered organization" means an organization formed or organized solely under the law of a single state or the United States by the filing of a public organic record with, the issuance of a public organic record by, or the enactment of legislation by the state or the United States. The term includes a business trust that is formed or organized under the law of a single state if a statute of the state governing business trusts requires that the business trust's organic record be filed with the state;

(71) "Secondary obligor" means an obligor to the extent that:

(A) The obligor's obligation is secondary; or

(B) The obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either;

(72) "Secured party" means:

(A) A person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

(B) A person that holds an agricultural lien;

(C) A consignor;

(D) A person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;

(E) A trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or

(F) A person that holds a security interest arising under sections 400.2-401, 400.2-505, 400.2-711(3), 400.2A-508(5), 400.4-210 or 400.5-118;

(73) "Security agreement" means an agreement that creates or provides for a security interest;

(74) "Send", in connection with a record or notification, means:

(A) To deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or

(B) To cause the record or notification to be received within the time that it would have been received if properly sent under subparagraph (A);

(75) "Software" means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods;

(76) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;

(77) "Supporting obligation" means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property;

(78) "Tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium;

(79) "Termination statement" means an amendment of a financing statement which:

(A) Identifies, by its file number, the initial financing statement to which it relates; and

(B) Indicates either that it is a termination statement or that the identified financing statement is no longer effective;

(80) "Transmitting utility" means a person primarily engaged in the business of:

(A) Operating a railroad, subway, street railway, or trolley bus;

(B) Transmitting communications electrically, electromagnetically, or by light;

(C) Transmitting goods by pipeline or sewer; or

(D) Transmitting or producing and transmitting electricity, steam, gas, or water.

(b) **"Control" as provided in section 400.8-106 and** the following definitions in other articles apply to this article:

"Applicant"	Section 400.5-102.
"Beneficiary"	Section 400.5-102.
"Broker"	Section 400.8-102.
"Certificated security"	Section 400.8-102.
"Check"	Section 400.3-104.
"Clearing corporation"	Section 400.8-102.
"Contract for sale"	Section 400.2-106.
"Customer"	Section 400.4-104.
"Entitlement holder"	Section 400.8-102.
"Financial asset"	Section 400.8-102.
"Holder in due course"	Section 400.3-302.
"Issuer" (with respect to a letter of credit or letter-of-credit right)	Section 400.5-102.
"Issuer" (with respect to a security)	Section 400.8-201.
"Lease "	Section 400.2A-103.
"Lease agreement"	Section 400.2A-103.
"Lease contract"	Section 400.2A-103.
"Leasehold interest"	Section 400.2A-103.
"Lessee"	Section 400.2A-103.
"Lessee in ordinary course of business"	Section 400.2A-103.
"Lessor"	Section 400.2A-103.
"Lessor's residual interest"	Section 400.2A-103.
"Letter of credit"	Section 400.5-102.
"Merchant"	Section 400.2-104.
"Negotiable instrument"	Section 400.3-104.
"Nominated person"	Section 400.5-102.
"Note"	Section 400.3-104.
"Proceeds of a letter of credit"	Section 400.5-114.
"Prove"	Section 400.3-103.
"Sale"	Section 400.2-106.
"Securities account"	Section 400.8-501.
"Securities intermediary"	Section 400.8-102.
"Security"	Section 400.8-102.
"Security certificate"	Section 400.8-102.

"Security entitlement"	Section 400.8-102.
"Uncertificated security"	Section 400.8-102.

(c) This section contains general definitions and principles of construction and interpretation applicable throughout sections 400.9-103 to **[**400.9-708**]** **400.9-809**.

400.9-105. CONTROL OF ELECTRONIC CHATTEL PAPER. — **(a)** A secured party has control of electronic chattel paper if **a system employed for evidencing the transfer of interests in the chattel paper reliably establishes the secured party as the person to which the chattel paper was assigned.**

(b) A system satisfies subsection (a) if the record or records comprising the chattel paper are created, stored, and assigned in such a manner that:

(1) A single authoritative copy of the record or records exists which is unique, identifiable and, except as otherwise provided in paragraphs (4), (5), and (6), unalterable;

(2) The authoritative copy identifies the secured party as the assignee of the record or records;

(3) The authoritative copy is communicated to and maintained by the secured party or its designated custodian;

(4) Copies or **[**revisions**]** **amendments** that add or change an identified assignee of the authoritative copy can be made only with the **[**participation**]** **consent** of the secured party;

(5) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) Any **[**revision**]** **amendment** of the authoritative copy is readily identifiable as **[**an**]** authorized or unauthorized **[**revision**]**.

400.9-311. PERFECTION OF SECURITY INTERESTS IN PROPERTY SUBJECT TO CERTAIN STATUTES, REGULATIONS, AND TREATIES. — (a) Except as otherwise provided in subsection (d), the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

(1) A statute, regulation, or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt section 400.9-310(a);

(2) Sections 301.600 to 301.661, section 700.350, and section 400.2A-304; or

(3) A **[**certificate-of-title**]** statute of another jurisdiction which provides for a security interest to be indicated on **[**the**]** **a** certificate **of title** as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

(b) Compliance with the requirements of a statute, regulation, or treaty described in subsection (a) for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under this article. Except as otherwise provided in subsection (d) and sections 400.9-313 and 400.9-316(d) and (e) for goods covered by a certificate of title, a security interest in property subject to a statute, regulation, or treaty described in subsection (a) may be perfected only by compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

(c) Except as otherwise provided in subsection (d) and section 400.9-316(d) and (e), duration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation, or treaty described in subsection (a) are governed by the statute, regulation, or treaty. In other respects, the security interest is subject to this article.

(d) During any period in which collateral is inventory held for sale or lease by a person or leased by that person as lessor and that person is in the business of selling goods of that kind, this section does not apply to a security interest in that collateral created by that person.

400.9-317. INTERESTS THAT TAKE PRIORITY OVER OR TAKE FREE OF SECURITY INTEREST OR AGRICULTURAL LIEN. — (a) A security interest or agricultural lien is subordinate to the rights of:

(1) A person entitled to priority under section 400.9-322; and

(2) Except as otherwise provided in subsection (e), a person that becomes a lien creditor before the earlier of the time:

(A) The security interest or agricultural lien is perfected; or

(B) One of the conditions specified in section 400.9-203(b)(3) is met and a financing statement covering the collateral is filed.

(b) Except as otherwise provided in subsection (e), a buyer, other than a secured party, of tangible chattel paper, documents, goods, instruments, or a **[**security certificate**]** **certificated security** takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(c) Except as otherwise provided in subsection (e), a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(d) A licensee of a general intangible or a buyer, other than a secured party, of collateral other than tangible chattel paper, tangible documents, goods, instruments, or a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(e) Except as otherwise provided in sections 400.9-320 and 400.9-321, if a person files a financing statement with respect to a purchase-money security interest before or within twenty days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor which arise between the time the security interest attaches and the time of filing.

400.9-326. PRIORITY OF SECURITY INTERESTS CREATED BY NEW DEBTOR. — (a) Subject to subsection (b), a security interest that is created by a new debtor in collateral in which the new debtor has or acquires rights and is perfected solely by a filed financing statement that would be **[**effective**]** **ineffective** to perfect the security interest but for the application of section **400.9-316(i)(1) or** 400.9-508 is subordinate to a security interest in the same collateral which is perfected other than by such a filed financing statement.

(b) The other provisions of this part determine the priority among conflicting security interests in the same collateral perfected by filed financing statements described in subsection (a). However, if the security agreements to which a new debtor became bound as debtor were not entered into by the same original debtor, the conflicting security interests rank according to priority in time of the new debtor's having become bound.

400.9-503. NAME OF DEBTOR AND SECURED PARTY. — (a) A financing statement sufficiently provides the name of the debtor:

(1) Except as otherwise provided in paragraph (3), if the debtor is a registered organization or the collateral is held in a trust that is a registered organization, only if the financing statement provides the name that is stated to be the registered organization's name on the public organic record most recently filed with or issued or enacted by the registered organization's jurisdiction of organization which purports to state, amend, or restate the registered organization's name;

(2) Subject to subsection (f), if the collateral is being administered by the personal representative of a decedent, only if the financing statement provides as the name of the debtor, the name of the decedent and, in a separate part of the financing statement, indicates that the collateral is being administered by a personal representative;

(3) If the collateral is held in a trust that is not a registered organization, only if the financing statement:

(A) Provides, as the name of the debtor:

(i) If the organic record of the trust specifies a name for the trust, the name specified; or

(ii) If the organic record of the trust does not specify a name for the trust, the name of the settlor or testator; and

(B) In a separate part of the financing statement:

(i) If the name is provided in accordance with subparagraph (A)(i), indicates that the collateral is held in a trust; or

(ii) If the name is provided in accordance with subparagraph (A)(ii), provides additional information sufficient to distinguish the trust from other trusts having one or more of the same settlors or the same testator and indicates that the collateral is held in a trust, unless the additional information so indicates;

(4) Subject to subsection (g), if the debtor is an individual to whom this state has issued a driver's license **or nondriver's license** that has not expired, only if the financing statement provides the name of the individual which is indicated on the driver's license **or nondriver's license**;

(5) If the debtor is an individual to whom paragraph (4) does not apply, only if the financing statement provides the individual name of the debtor or the surname and first personal name of the debtor; and

(6) In other cases:

(A) If the debtor has a name, only if the financing statement provides the organizational name of the debtor; and

(B) If the debtor does not have a name, only if it provides the names of the partners, members, associates, or other persons comprising the debtor, in a manner that each name provided would be sufficient if the person named were the debtor.

(b) A financing statement that provides the name of the debtor in accordance with subsection (a) is not rendered ineffective by the absence of:

(1) A trade name or other name of the debtor; or

(2) Unless required under subsection **[**(a)(4)(B)**] (a)(6)(B)**, names of partners, members, associates, or other persons comprising the debtor.

(c) A financing statement that provides only the debtor's trade name does not sufficiently provide the name of the debtor.

(d) Failure to indicate the representative capacity of a secured party or representative of a secured party does not affect the sufficiency of a financing statement.

(e) A financing statement may provide the name of more than one debtor and the name of more than one secured party.

(f) The name of the decedent indicated on the order appointing the personal representative of the decedent issued by the court having jurisdiction over the collateral is sufficient as the name of the decedent under subsection (a)(2).

(g) If this state has issued to an individual more than one driver's license **or nondriver's license** of a kind described in subsection (a)(4), the one that was issued most recently is the one to which subsection (a)(4) refers.

(h) In this section, the name of the settlor or testator means:

(1) If the settlor is a registered organization, the name that is stated to be the settlor's name on the public organic record most recently filed with or issued or enacted by the settlor's jurisdiction of organization which purports to state, amend, or restate the settlor's name; or

(2) In other cases, the name of the settlor or testator indicated in the trust's organic record.

400.9-507. EFFECT OF CERTAIN EVENTS ON EFFECTIVENESS OF FINANCING STATEMENT. — (a) A filed financing statement remains effective with respect to collateral that is sold, exchanged, leased, licensed, or otherwise disposed of and in which a security interest or agricultural lien continues, even if the secured party knows of or consents to the disposition.

(b) Except as otherwise provided in subsection (c) and section 400.9-508, a financing statement is not rendered ineffective if, after the financing statement is filed, the information provided in the financing statement becomes seriously misleading under section 400.9-506.

(c) If **[**a debtor so changes its**] the** name that a filed financing statement **provides for a debtor** becomes **insufficient as the name of the debtor under section 400.9-503(a) so that the financing statement becomes** seriously misleading under section 400.9-506:

(1) The financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within four months after, the **[**change**]** **filed financing statement becomes seriously misleading**; and

(2) The financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the **[**change**]** **filed financing statement becomes seriously misleading**, unless an amendment to the financing statement which renders the financing statement not seriously misleading is filed within four months after the **[**change**]** **financing statement became seriously misleading**.

400.9-516. WHAT CONSTITUTES FILING — EFFECTIVENESS OF FILING. — (a) Except as otherwise provided in subsection (b), communication of a record to a filing office and tender of the filing fee or acceptance of the record by the filing office constitutes filing.

(b) Filing does not occur with respect to a record that a filing office refuses to accept because:

(1) The record is not communicated by a method or medium of communication authorized by the filing office;

(2) An amount equal to or greater than the applicable filing fee is not tendered;

(3) The filing office is unable to index the record because:

(A) In the case of an initial financing statement, the record does not provide a name for the debtor;

(B) In the case of an amendment or **[**correction**]** **information** statement, the record:

(i) Does not identify the initial financing statement as required by section 400.9-512 or 400.9-518, as applicable; or

(ii) Identifies an initial financing statement whose effectiveness has lapsed under section 400.9-515;

(C) In the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's **[**last name**]** **surname**; or

(D) In the case of a record filed or recorded in the filing office described in section 400.9-501(a)(1), the record does not provide a sufficient description of the real property to which it relates;

(4) In the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;

(5) In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:

(A) Provide a mailing address for the debtor; or

(B) Indicate whether the name provided as the name of the debtor is the name of an individual or an organization;

(6) In the case of an assignment reflected in an initial financing statement under section 400.9-514(a) or an amendment filed under section 400.9-514(b), the record does not provide a name and mailing address for the assignee; or

(7) In the case of a continuation statement, the record is not filed within the six-month period prescribed by section 400.9-515(d).

(c) For purposes of subsection (b):

(1) A record does not provide information if the filing office is unable to read or decipher the information; and

(2) A record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by section 400.9-512, 400.9-514 or 400.9-518, is an initial financing statement.

(d) A record that is communicated to the filing office with tender of the filing fee, but which the filing office refuses to accept for a reason other than one set forth in subsection (b), is effective as a filed record except as against a purchaser of the collateral which gives value in reasonable reliance upon the absence of the record from the files.

400.9-607. COLLECTION AND ENFORCEMENT BY SECURED PARTY. — (a) If so agreed, and in any event after default, a secured party:

(1) May notify an account debtor or other person obligated on collateral to make payment or otherwise render performance to or for the benefit of the secured party;

(2) May take any proceeds to which the secured party is entitled under section 400.9-315;

(3) May enforce the obligations of an account debtor or other person obligated on collateral and exercise the rights of the debtor with respect to the obligation of the account debtor or other person obligated on collateral to make payment or otherwise render performance to the debtor, and with respect to any property that secures the obligations of the account debtor or other person obligated on the collateral;

(4) If it holds a security interest in a deposit account perfected by control under section 400.9-104(a)(1), may apply the balance of the deposit account to the obligation secured by the deposit account; and

(5) If it holds a security interest in a deposit account perfected by control under section 400.9-104(a)(2) or (3), may instruct the bank to pay the balance of the deposit account to or for the benefit of the secured party.

(b) If necessary to enable a secured party to exercise under subsection (a)(3) the right of a debtor to enforce a mortgage nonjudicially, the secured party may record in the office in which a record of the mortgage is recorded:

(1) A copy of the security agreement that creates or provides for a security interest in the obligation secured by the mortgage; and

(2) The secured party's sworn affidavit in recordable form stating that:

(A) A default has occurred **with respect to the obligation secured by the mortgage**; and

(B) The secured party is entitled to enforce the mortgage nonjudicially.

(c) A secured party shall proceed in a commercially reasonable manner if the secured party:

(1) Undertakes to collect from or enforce an obligation of an account debtor or other person obligated on collateral; and

(2) Is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor or a secondary obligor.

(d) A secured party may deduct from the collections made pursuant to subsection (c) reasonable expenses of collection and enforcement, including reasonable attorney's fees and legal expenses incurred by the secured party.

(e) This section does not determine whether an account debtor, bank, or other person obligated on collateral owes a duty to a secured party.

400.9-802. SAVINGS CLAUSE. — (a) Except as otherwise provided in this part, this act applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created **[**before this act takes effect on July 1, 2013**] prior to August 28, 2013**.

(b) This act does not affect an action, case, or proceeding commenced before this act takes effect.

400.9-805. EFFECTIVENESS OF ACTION TAKEN BEFORE EFFECTIVE DATE. — (a) The filing of a financing statement before this act takes effect is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under article 9 as amended by this act.

(b) This act does not render ineffective an effective financing statement that, before this act takes effect, is filed and satisfies the applicable requirements for perfection under the law of the

jurisdiction governing perfection as provided in article 9 as it existed before amendment. However, except as otherwise provided in subsections (c) and (d) and section 400.9-806, the financing statement ceases to be effective:

(1) If the financing statement is filed in this state, at the time the financing statement would have ceased to be effective had this act not taken effect; or

(2) If the financing statement is filed in another jurisdiction, at the earlier of:

(A) The time the financing statement would have ceased to be effective under the law of that jurisdiction; or

(B) **[**June 30, 2018**]** **August 27, 2018**.

(c) The filing of a continuation statement after this act takes effect does not continue the effectiveness of a financing statement filed before this act takes effect. However, upon the timely filing of a continuation statement after this act takes effect and in accordance with the law of the jurisdiction governing perfection as provided in article 9 as amended by this act, the effectiveness of a financing statement filed in the same office in that jurisdiction before this act takes effect continues for the period provided by the law of that jurisdiction.

(d) Subsection (b)(2)(B) applies to a financing statement that, before this act takes effect, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in article 9 as it existed before amendment, only to the extent that article 9 as amended by this act provides that the law of a jurisdiction other than the jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

(e) A financing statement that includes a financing statement filed before this act takes effect and a continuation statement filed after this act takes effect is effective only to the extent that it satisfies the requirements of Part 5 as amended by this act for an initial financing statement. A financing statement that indicates that the debtor is a decedent's estate indicates that the collateral is being administered by a personal representative within the meaning of section 400.9-503(a)(2) as amended by this act. A financing statement that indicates that the debtor is a trust or is a trustee acting with respect to property held in trust indicates that the collateral is held in a trust within the meaning of section 400.9-503(a)(3) as amended by this act.

400.9-806. WHEN INITIAL FINANCING STATEMENT SUFFICES TO CONTINUE EFFECTIVENESS OF FINANCING STATEMENT. — (a) The filing of an initial financing statement in the office specified in section 400.9-501 continues the effectiveness of a financing statement filed before this act takes effect if:

(1) The filing of an initial financing statement in that office would be effective to perfect a security interest under article 9 as amended by this act;

(2) The pre-effective-date financing statement was filed in an office in another state; and

(3) The initial financing statement satisfies subsection (c).

(b) The filing of an initial financing statement under subsection (a) continues the effectiveness of the pre-effective-date financing statement:

(1) If the initial financing statement is filed before this act takes effect, for the period provided in unamended section 400.9-515 with respect to an initial financing statement; **[**or**]** **and**

(2) If the initial financing statement is filed after this act takes effect, for the period provided in section 400.9-515 as amended by this act with respect to an initial financing statement.

(c) To be effective for purposes of subsection (a), an initial financing statement must:

(1) Satisfy the requirements of section 400.9-500, et. seq., as amended by this act for an initial financing statement;

(2) Identify the pre-effective-date financing statement by indicating the office in which the financing statement was filed and providing the dates of filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement; and

(3) Indicate that the pre-effective-date financing statement remains effective.

400.2A-103. DEFINITIONS AND INDEX OF DEFINITIONS. — (1) In this article unless the context otherwise requires:

(a) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to him or her is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a preexisting contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(b) "Cancellation" occurs when either party puts an end to the lease contract for default by the other party.

(c) "Commercial unit" means such a unit of goods as by commercial usage is a single whole for purposes of lease and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article, as a machine, or a set of articles, as a suite of furniture or a line of machinery, or a quantity, as a gross or carload, or any other unit treated in use or in the relevant market as a single whole.

(d) "Conforming" goods or performance under a lease contract means goods or performance that are in accordance with the obligations under the lease contract.

(e) "Consumer lease" means a lease that a lessor regularly engaged in the business of leasing or selling makes to a lessee who is an individual and who takes under the lease primarily for a personal, family, or household purpose, if the total payments to be made under the lease contract, excluding payments for option to renew or buy, do not exceed fifty thousand dollars.

(f) "Fault" means wrongful act, omission, breach, or default.

(g) "Finance lease" means a lease with respect to which:

(i) the lessor does not select, manufacture, or supply the goods;

(ii) the lessor acquires the goods or the right to possession and use of the goods in connection with the lease; and

(iii) one of the following occurs:

(A) the lessee receives a copy of the contract by which the lessor acquired the goods or the right to possession and use of the goods before signing the lease contract;

(B) the lessee's approval of the contract by which the lessor acquired the goods or the right to possession and use of the goods is a condition to effectiveness of the lease contract;

(C) the lessor (aa) informs the lessee in writing of the identity of the supplier, unless the lessee has selected the supplier and directed the lessor to purchase the goods from the supplier, (bb) informs the lessee in writing that the lessee may have rights under the contract evidencing the lessor's purchase of the goods, and (cc) advised the lessee in writing to contact the supplier for a description of any such rights, or

(D) the lease contract discloses all warranties and other rights provided to the lessee by the lessor and supplier in connection with the lease contract and informs the lessee that there are no warranties or other rights provided to the lessee by the lessor and supplier other than those disclosed in the lease contract.

(h) "Goods" means all things that are movable at the time of identification to the lease contract, or are fixtures as defined in Section 400.2A-309, but the term does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like, including oil and gas, before extraction. The term also includes the unborn young of animals.

(i) "Installment lease contract" means a lease contract that authorizes or requires the delivery of goods in separate lots to be separately accepted, even though the lease contract contains a clause "each delivery is a separate lease" or its equivalent.

(j) "Lease" means a transfer of the right to possession and use of goods for a term in return for consideration, but a sale, including a sale on approval or a sale or return, or retention or

creation of a security interest is not a lease. Unless the context clearly indicates otherwise, the term includes a sublease.

(k) "Lease agreement" means the bargain, with respect to the lease, of the lessor and the lessee in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this Article. Unless the context clearly indicates otherwise, the term includes a sublease agreement.

(l) "Lease contract" means the total legal obligation that results from the lease agreement as affected by this Article and any other applicable rules of law. Unless the context clearly indicates otherwise, the term includes a sublease contract.

(m) "Leasehold interest" means the interest of the lessor or the lessee under a lease contract.

(n) "Lessee" means a person who acquires the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessee.

(o) "Lessee in ordinary course of business" means a person who in good faith and without knowledge that the lease to him or her is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods leases in ordinary course from a person in the business of selling or leasing goods of that kind but does not include a pawnbroker. "Leasing" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a preexisting lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(p) "Lessor" means a person who transfers the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessor.

(q) "Lessor's residual interest" means the lessor's interest in the goods after expiration, termination, or cancellation of the lease contract.

(r) "Lien" means a charge against or interest in goods to secure payment of a debt or performance of an obligation, but the term does not include a security interest.

(s) "Lot" means a parcel or a single article that is the subject matter of a separate lease or delivery, whether or not it is sufficient to perform the lease contract.

(t) "Merchant lessee" means a lessee that is a merchant with respect to goods of the kind subject to the lease.

(u) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate was not manifestly unreasonable at the time the transaction was entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(v) "Purchase" includes taking by sale, lease, mortgage, security interest, pledge, gift, or any other voluntary transaction creating an interest in goods.

(w) "Sublease" means a lease of goods the right to possession and use of which was acquired by the lessor as a lessee under an existing lease.

(x) "Supplier" means a person from whom a lessor buys or leases goods to be leased under a finance lease.

(y) "Supply contract" means a contract under which a lessor buys or leases goods to be leased.

(z) "Termination" occurs when either party pursuant to a power created by agreement or law puts an end to the lease contract otherwise than for default.

(2) Other definitions applying to this article and the sections in which they appear are:

"Accessions".	Section 400.2A-310(1).
"Construction mortgage".	Section 400.2A-309(1)(d).
"Encumbrance".	Section 400.2A-309(1)(e).
"Fixtures".	Section 400.2A-309(1)(a).
"Fixture filing".	Section 400.2A-309(1)(b).
"Purchase money lease".	Section 400.2A-309(1)(c).

(3) The following definitions in other articles apply to this article:

"Account".	Section 400.9-102(a)(2).
"Between merchants".	Section 400.2-104(3).
"Buyer".	Section 400.2-103(1)(a).
"Chattel paper".	Section 400.9-102(a)(10).
"Consumer goods".	Section 400.9-102(a)(22).
"Document".	Section 400.9-102(a)(29).
"Entrusting".	Section 400.2-403(3).
"General intangible".	Section 400.9-102(a)(41).
"Good faith".	Section 400.2-103(1)(b).
"Instrument".	Section 400.9-102(a)(46).
"Merchant".	Section 400.2-104(1).
"Mortgage".	Section 400.9-102(a)(54).
"Pursuant to commitment".	Section 400.9-102(a)**[**(67)**] (68)**.
"Receipt".	Section 400.2-103(1)(c).
"Sale".	Section 400.2-106(1).
"Sale on approval".	Section 400.2-326.
"Sale or return".	Section 400.2-326.
"Seller".	Section 400.2-103(1)(d).

(4) In addition article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

Approved June 4, 2014

HB 1389 [HCS HB 1389]

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

Implementation of a state authorization reciprocity agreement for distance education

AN ACT to repeal sections 173.030 and 174.450, RSMo, and to enact in lieu thereof two new sections relating to state authorization of reciprocity agreements for distance education.

SECTION
173.030. Additional responsibilities.
174.450. Board of governors to be appointed for certain public institutions of higher education, qualifications, terms — change in congressional districts, effect of.

Be it enacted by the General Assembly of the state of Missouri, as follows: Section A. Sections 173.030 and 174.450, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 173.030 and 174.450, to read as follows:

173.030. ADDITIONAL RESPONSIBILITIES. — The coordinating board, in addition, shall have responsibility, within the provisions of the constitution and the statutes of the state of Missouri, for:

(1) Requesting the governing boards of all state-supported institutions of higher education, and of major private institutions to submit to the coordinating board any proposed policy changes which would create additional institutions of higher education, additional residence centers, or major additions in degree and certificate programs, and make pertinent recommendations relating thereto;

(2) Recommending to the governing board of any institution of higher education in the state the development, consolidation, or elimination of programs, degree offerings, physical facilities

or policy changes where that action is deemed by the coordinating board as in the best interests of the institutions themselves and/or the general requirements of the state. Recommendations shall be submitted to governing boards by twelve months preceding the term in which the action may take effect;

(3) Recommending to the governing boards of state-supported institutions of higher education, including public community colleges receiving state support, formulas to be employed in specifying plans for general operations, for development and expansion, and for requests for appropriations from the general assembly. Such recommendations will be submitted to the governing boards by April first of each year preceding a regular session of the general assembly of the state of Missouri;

(4) Promulgating rules to include selected off-campus instruction in public college and university appropriation recommendations where prior need has been established in areas designated by the coordinating board for higher education. Funding for such off-campus instruction shall be included in the appropriation recommendations, shall be determined by the general assembly and shall continue, within the amounts appropriated therefor, unless the general assembly disapproves the action by concurrent resolution;

(5) Coordinating reciprocal agreements between or among Missouri state institutions of higher education at the request of one or more of the institutions party to the agreement, and between or among Missouri state institutions of higher education and publicly supported higher education institutions located outside the state of Missouri at the request of any Missouri institution party to the agreement;

(6) **Entering into agreements for interstate reciprocity regarding the delivery of postsecondary distance education, administering such agreements, and approving or disapproving applications to participate in such agreements from a postsecondary institution that has its principal campus in the state of Missouri:**

(a) The coordinating board shall establish standards for institutional approval. Those standards shall include, but are not limited to the:

a. Definition of physical presence for non-Missouri institutions serving Missouri residents consistent with other states' definitions of physical presence; and

b. Establishment of consumer protection policies for distance education addressing recruitment and marketing activities; disclosure of tuition, fees, and other charges; disclosure of admission processes and procedures; and student complaints;

(b) The coordinating board shall establish policies for the review and resolution of student complaints arising from distance education programs offered under the agreement;

(c) The coordinating board may charge fees to any institution that applies to participate in an interstate postsecondary distance education reciprocity agreement authorized pursuant to this section. Such fees shall not exceed the coordinating board for higher education's cost of reviewing and evaluating the applications; and

(d) The coordinating board shall promulgate rules to implement the provisions of this subdivision. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2014, shall be invalid and void;

(7) Administering the nurse training incentive fund;

[(7)**] (8)** Conducting, in consultation with each public four-year institution's governing board and the governing board of technical colleges and community colleges, a review every five years of the mission statements of the institutions comprising Missouri's system of public higher

education. This review shall be based upon the needs of the citizens of the state as well as the requirements of business, industry, the professions and government. The purpose of this review shall be to ensure that Missouri's system of higher education is responsive to the state's needs and is focused, balanced, cost-effective, and characterized by programs of high quality as demonstrated by student performance and program outcomes. As a component of this review, each institution shall prepare, in a manner prescribed by the coordinating board, a mission implementation plan for the coordinating board's consideration and approval. If the coordinating board determines that an institution has qualified for a mission change or additional targeted resources pursuant to review conducted under this subdivision and subdivision **[**(8)**] (9)** of this subsection, the coordinating board shall submit a report to the general assembly that outlines the proposed mission change or targeted state resources. No change of mission for an institution under this subdivision establishing a statewide mission shall become effective until the general assembly approves the proposed mission change by concurrent resolution, except for the institution defined pursuant to subdivision (1) of section 174.010, and has been approved by the coordinating board and the institutions for which the coordinating board has recommended a statewide mission prior to August 28, 1995. The effective date of any mission change under this subdivision shall be the first day of July immediately following the approval of the concurrent resolution by the general assembly as required under this subdivision, and shall be August 28, 1995, for any institution for which the coordinating board has recommended a statewide mission which has not yet been implemented on such date. Nothing in this subdivision shall preclude an institution from initiating a request to the coordinating board for a revision of its mission; and

[(8)**] (9)** Reviewing applications from institutions seeking a statewide mission. Such institutions shall provide evidence to the coordinating board that they have the capacity to discharge successfully such a mission. Such evidence shall consist of the following:

(a) That the institution enrolls a representative cross-section of Missouri students. Examples of evidence for meeting this requirement which the institution may present include, but are not limited to, the following: enrolling at least forty percent of its Missouri resident, first-time degree-seeking freshmen from outside its historic statutory service region; enrolling its Missouri undergraduate students from at least eighty percent of all Missouri counties; or enrolling one or more groups of special population students such as minorities, economically disadvantaged, or physically disadvantaged from outside its historic statutory service region at rates exceeding state averages of such populations enrolled in the higher educational institutions of this state;

(b) That the institution offers one or more programs of unusual strength which respond to a specific statewide need. Examples of evidence of meeting this requirement which the institution may present include, but are not limited to, the following: receipt of national, discipline-specific accreditation when available; receipt of independent certification for meeting national or state standards or requirements when discipline-specific accreditation is not available; for occupationally specific programs, placement rates significantly higher than average; for programs for which state or national licensure is required or for which state or national licensure or registration is available on a voluntary basis, licensure or registration rates for graduates seeking such recognition significantly higher than average; or quality of program faculty as measured by the percentage holding terminal degrees, the percentage writing publications in professional journals or other appropriate media, and the percentage securing competitively awarded research grants which are higher than average;

(c) That the institution has a clearly articulated admission standard consistent with the provisions of subdivision (4) of subsection 2 of section 173.005 or section 174.130;

(d) That the institution is characterized by a focused academic environment which identifies specific but limited areas of academic emphasis at the undergraduate, and if appropriate, at the graduate and professional school levels, including the identification of programs to be continued, reduced, terminated or targeted for excellence. The institution shall, consistent with its focused academic environment, also have the demonstrable capacity to provide significant public service or research support that address statewide needs for constituencies beyond its historic statutory service region; and

(e) That the institution has adopted and maintains a program of continuous quality improvement, or the equivalent of such a program, and reports annually appropriate and verifiable measures of institutional accountability related to such program. Such measures shall include, but not be limited to, indicators of student achievement and institutional mission attainment such as percentage of students meeting institutional admission standards; success of remediation programs, if offered; student retention rate; student graduation rate; objective measures of student, alumni, and employer satisfaction; objective measures of student learning in general education and the major, including written and oral communication skills and critical thinking skills; percentage of students attending graduate or professional schools; student placement, licensure and professional registration rates when appropriate to a program's objectives; objective measures of successful attainment of statewide goals as may be expressed from time to time by the coordinating board or by the general assembly; and objective measures of faculty teaching effectiveness. In the development and evaluation of these institutional accountability reports, the coordinating board and institutions are expected to use multiple measures of success, including nationally developed and verified as well as locally developed and independently verified assessment instruments; however, preference shall be given to nationally developed instruments when they are available and if they are appropriate. Institutions which serve or seek to serve a statewide mission shall be judged to have met the prerequisites for such a mission when they demonstrate to the coordinating board that they have met the criteria described in this subdivision. As a component of this process, each institution shall prepare, in a manner prescribed by the coordinating board, a mission implementation plan for the coordinating board's consideration and approval.

174.450. BOARD OF GOVERNORS TO BE APPOINTED FOR CERTAIN PUBLIC INSTITUTIONS OF HIGHER EDUCATION, QUALIFICATIONS, TERMS — CHANGE IN CONGRESSIONAL DISTRICTS, EFFECT OF. — 1. Except as provided in subsection 2 and subsection 6 of this section, the governing board of the University of Central Missouri, Missouri State University, Missouri Southern State University, Missouri Western State University, and of each other public institution of higher education which, through the procedures established in subdivision **[**(7) or**]** (8) **or (9)** of section 173.030, is charged with a statewide mission shall be a board of governors consisting of eight members, composed of seven voting members and one nonvoting member as provided in sections 174.453 and 174.455, who shall be appointed by the governor of Missouri, by and with the advice and consent of the senate. No person shall be appointed a voting member who is not a citizen of the United States and who has not been a resident of the state of Missouri for at least two years immediately prior to such appointment. Not more than four voting members shall belong to any one political party. The appointed members of the board of regents serving on the date of the statutory mission change shall become members of the board of governors on the effective date of the statutory mission change and serve until the expiration of the terms for which they were appointed. The board of regents of any such institution shall be abolished on the effective date of the statutory mission change, as prescribed in subdivision **[**(7) or**]** (8) **or (9)** of section 173.030.

2. The governing board of Missouri State University, a public institution of higher education charged with a statewide mission in public affairs, shall be a board of governors of ten members, composed of nine voting members and one nonvoting member, who shall be appointed by the governor, by and with the advice and consent of the senate. The nonvoting member shall be a student selected in the same manner as prescribed in section 174.055. At least one but no more than two voting members shall be appointed to the board from each congressional district, and every member of the board shall be a citizen of the United States, and a resident of this state for at least two years prior to his or her appointment. No more than five voting members shall belong to any one political party. The term of office of the governors shall be six years, except as provided in this subsection. The term of office for those appointed hereafter shall end January first in years ending in an odd number. For the six voting members' terms that expired in 2011, the successors shall be appointed in the following manner:

(1) Of the five voting members' terms that expired on August 28, 2011, one successor member shall be appointed, or the existing member shall be reappointed, to a term that shall expire on January 1, 2013;

(2) Of the five voting members' terms that expired on August 28, 2011, two successor members shall be appointed, or the existing members shall be reappointed, to terms that shall expire on January 1, 2015;

(3) Of the five voting members' terms that expired on August 28, 2011, two successor members shall be appointed, or the existing members shall be reappointed, to a term that shall expire on January 1, 2017; and

(4) For the voting member's term that expired on January 1, 2011, the successor member shall be appointed, or the existing member shall be reappointed, to a term that shall expire on January 1, 2017.

Notwithstanding any provision of law to the contrary, nothing in this section relating to a change in the composition and configuration of congressional districts in this state shall prohibit a member who is serving a term on August 28, 2011, from completing his or her term.

3. If a voting member of the board of governors of Missouri State University is found by unanimous vote of the other governors to have moved such governor's residence from the district from which such governor was appointed, then the office of such governor shall be forfeited and considered vacant.

4. Should the total number of Missouri congressional districts be altered, all members of the board of governors of Missouri State University shall be allowed to serve the remainder of the term for which they were appointed.

5. Should the boundaries of any congressional districts be altered in a manner that displaces a member of the board of governors of Missouri State University from the congressional district from which the member was appointed, the member shall be allowed to serve the remainder of the term for which the member was appointed.

6. The governing board of Missouri Southern State University shall be a board of governors consisting of nine members, composed of eight voting members and one nonvoting member as provided in sections 174.453 and 174.455, who shall be appointed by the governor of Missouri, by and with the advice and consent of the senate. No person shall be appointed a voting member who is not a citizen of the United States and who has not been a resident of the state of Missouri for at least two years immediately prior to such appointment. Not more than four voting members shall belong to any one political party.

Approved June 19, 2014

HB 1410 [SCS HCS HB 1410]

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

Changes the laws regarding landlord-tenant actions

AN ACT to repeal sections 67.281, 441.005, 441.500, 441.760, 441.770, 512.180, 534.060, 534.350, 534.360, 534.380, 535.030, 535.110, 535.160, 535.170, 535.200, 535.210, and 569.130, RSMo, and to enact in lieu thereof seventeen new sections relating to landlord tenant actions.

SECTION

A. Enacting clause.

67.281. Installation of fire sprinklers to be offered to purchaser by builder of certain dwellings — purchaser may decline — expiration date.
441.005. Definitions.
441.500. Definitions.
441.760. Immediate removal of parties other than tenant, when — immediate removal of tenant or lessee, when.
441.770. Court-ordered eviction, when — court-ordered removal of third party from leased premises, when — expedited eviction order — stay of execution of eviction order, when.
512.180. Appeals from cases tried before associate circuit judge.
534.060. Before whom cognizable — centralized filing — assignment of cases.
534.350. Execution — when issued and levied.
534.360. Execution, when defendant is about to abscond.
534.380. Judgment stay for appeals.
535.030. Service of summons — court date included in summons.
535.110. Appeals, defendant to furnish bond to stay execution.
535.160. Tender of rent and costs on judgment date, effect — not bar to landlord's appeal — no stay of execution if no money judgment, exceptions.
535.170. Lessee barred from relief, when — appeal permitted, when.
535.200. Landlord-tenant court authorized in City of St. Louis, jurisdiction — landlord-tenant commissioners, powers and qualifications — landlord-tenant court procedures.
535.210. Landlord-tenant court authorized in Jackson County, jurisdiction — landlord-tenant commissioners, powers and qualifications — landlord-tenant court procedures.
569.130. Claim of right.

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

SECTION A. ENACTING CLAUSE. — Sections 67.281, 441.005, 441.500, 441.760, 441.770, 512.180, 534.060, 534.350, 534.360, 534.380, 535.030, 535.110, 535.160, 535.170, 535.200, 535.210, and 569.130, RSMo, are repealed and seventeen new sections enacted in lieu thereof, to be known as sections 67.281, 441.005, 441.500, 441.760, 441.770, 512.180, 534.060, 534.350, 534.360, 534.380, 535.030, 535.110, 535.160, 535.170, 535.200, 535.210, and 569.130, to read as follows:

67.281. INSTALLATION OF FIRE SPRINKLERS TO BE OFFERED TO PURCHASER BY BUILDER OF CERTAIN DWELLINGS — PURCHASER MAY DECLINE — EXPIRATION DATE. — 1. A builder of one- or two-family dwellings or townhouses shall offer to any purchaser on or before the time of entering into the purchase contract the option, at the purchaser's cost, to install or equip fire sprinklers in the dwelling or townhouse. Notwithstanding any other provision of law to the contrary, no purchaser of such a one- or two-family dwelling or townhouse shall be denied the right to choose or decline to install a fire sprinkler system in such dwelling or townhouse being purchased by any code, ordinance, rule, regulation, order, or resolution by any county or other political subdivision. Any county or other political subdivision shall provide in any such code, ordinance, rule, regulation, order, or resolution the mandatory option for purchasers to have the right to choose and the requirement that builders offer to purchasers the option to purchase fire sprinklers in connection with the purchase of any one- or two-family dwelling or townhouse. The provisions of this section shall expire on December 31, **[**2019**]** **2024**.

2. Any governing body of any political subdivision that adopts the 2009 International Residential Code for One- and Two-Family Dwellings or a subsequent edition of such code without mandated automatic fire sprinkler systems in Section R313 of such code shall retain the language in section R317 of the 2006 International Residential Code for two-family dwellings (R317.1) and townhouses (R317.2).

441.005. DEFINITIONS. — Except as otherwise provided, when used in chapter 534, chapter 535, or this chapter, the following terms mean:

(1) **"Landlord", the owner or lessor of the premises or a person authorized by the owner to exercise any aspect of the management of the premises;**

(2) "Lease", a written or oral agreement for the use or possession of premises;

[(2)**] (3)** "Lessee", any person who leases premises from another**[**, and any person residing on the premises with the lessee's permission**] to the exclusion of others during the rental or lease period and who is obligated to pay rent**;

[(3)**] (4)** "Premises", land, tenements, condominium or cooperative units, air rights and all other types of real property leased under the terms of a rental agreement, including any facilities and appurtenances, to such premises, and any grounds, areas and facilities held out for the use of tenants generally or the use of which is promised to the tenant. "Premises" include structures, fixed or mobile, temporary or permanent, vessels, manufactured homes as defined in section 700.010, mobile trailer homes and vehicles which are used or intended for use primarily as a dwelling or as a place for commercial or industrial operations or storage;

[(4)**] (5)** "Rent", a stated payment for the temporary possession or use of a house, land or other real property, made at fixed intervals by a tenant **or lessee** to a landlord**;**

(6) "Tenant", a person who occupies the premises with the landlord's consent.

441.500. DEFINITIONS. — As used in sections 441.500 to 441.643, the following terms mean:

(1) "Abatement", the removal or correction, including demolition, of any condition at a property that violates the provisions of any duly enacted building or housing code, as well as the making of such other improvements or corrections as are needed to effect the rehabilitation of the property or structure, including the closing or physical securing of the structure;

(2) "Agent", a person authorized by an owner to act for him;

(3) "Code enforcement agency", the official, agency, or board that has been delegated the responsibility for enforcing the housing code by the governing body;

(4) "Community", any county or municipality;

(5) "County", any county in the state;

(6) "Dwelling unit", premises or part thereof occupied, used, or held out for use and occupancy as a place of abode for human beings, whether occupied or vacant;

(7) "Governing body", the board, body or persons in which the powers of a community are vested;

(8) "Housing code", a local building, fire, health, property maintenance, nuisance or other ordinance which contains standards regulating the condition or maintenance of residential buildings;

(9) "Local housing corporation", a not-for-profit corporation organized pursuant to the laws of the state of Missouri for the purpose of promoting housing development and conservation within a specified area of a municipality or an unincorporated area;

(10) "Municipality", any incorporated city, town, or village;

(11) "Neighborhood association", any group of persons organized for the sole purpose of improvement of a particular geographic area having specific boundaries within a municipality, provided that such association is recognized by the municipality as the sole association for such purpose within such geographic area;

(12) "Notice of deficiency", a notice or other order issued by the code enforcement agency and requiring the elimination or removal of deficiencies found to exist under the housing code;

(13) "Nuisance", a violation of provisions of the housing code applying to the maintenance of the buildings or dwellings which the code official in the exercise of reasonable discretion believes constitutes a threat to the public health, safety or welfare;

(14) "Occupant", any person **lawfully** occupying a dwelling unit as his or her place of residence, **either as a tenant or a lessee,** whether or not that person is occupying the dwelling unit as a tenant from month to month or under a written lease, undertaking or other agreement;

(15) "Owner", the record owner or owners, and the beneficial owner or owners when other than the record owner, of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, personal representative, trustee, lessee, agent, or any other person in control of a dwelling unit;

(16) "Person", any individual, corporation, association, partnership, or other entity.

441.760. IMMEDIATE REMOVAL OF PARTIES OTHER THAN TENANT, WHEN — IMMEDIATE REMOVAL OF TENANT OR LESSEE, WHEN. — **1.** If the plaintiff has met its burden of proof for a complete eviction but the tenant successfully pleads an affirmative defense to the eviction pursuant to section 441.750, then the court shall not terminate the tenancy but shall order the immediate removal of any person who the court finds conducted the drug-related activity which was the subject of the eviction proceeding.

2. If the plaintiff presents evidence that a person is not lawfully occupying a dwelling unit as either a tenant or a lessee, the court shall order the immediate removal of such person unlawfully occupying the dwelling unit.

441.770. COURT-ORDERED EVICTION, WHEN — COURT-ORDERED REMOVAL OF THIRD PARTY FROM LEASED PREMISES, WHEN — EXPEDITED EVICTION ORDER — STAY OF EXECUTION OF EVICTION ORDER, WHEN. — 1. If the grounds for an eviction have been established pursuant to subsection 1 of section 441.740, the court shall order that the tenant be evicted from the leased property. **Following the order, the tenant shall have twenty-four hours to vacate the premises and the landlord shall subsequently have a right to reenter and take possession of the premises.**

2. If the grounds for a removal have been established pursuant to subsection 2 of section 441.740, the court shall order that those persons found to be engaging in the criminal activity described therein be immediately removed and barred from the leased property, but the court shall not order the tenancy be terminated.

3. The court may order the expedited execution of an eviction or removal order by requiring the order's enforcement by the appropriate agency within a specified number of days after final judgment.

4. The court may stay execution of an eviction or removal order for a reasonable length of time if the moving party establishes by clear and convincing evidence that immediate removal or eviction would pose a serious danger to the party and that this danger outweighs the safety, health and well-being of the surrounding community and of the plaintiff.

512.180. APPEALS FROM CASES TRIED BEFORE ASSOCIATE CIRCUIT JUDGE. — 1. Any person aggrieved by a judgment in a civil case tried without a jury before an associate circuit judge, other than an associate circuit judge sitting in the probate division or who has been assigned to hear the case on the record under procedures applicable before circuit judges, shall have the right of a trial de novo in all cases tried before municipal court or under the provisions of **[**chapters**]** **chapter** 482**[**, 534, and 535**]**.

2. In all other contested civil cases tried with or without a jury before an associate circuit judge or on assignment under such procedures applicable before circuit judges or in any misdemeanor case or county ordinance violation case a record shall be kept, and any person aggrieved by a judgment rendered in any such case may have an appeal upon that record to the appropriate appellate court. At the discretion of the judge, but in compliance with the rules of the supreme court, the record may be a stenographic record or one made by the utilization of electronic, magnetic, or mechanical sound or video recording devices.

534.060. BEFORE WHOM COGNIZABLE — CENTRALIZED FILING — ASSIGNMENT OF CASES. — Forcible entries and detainers, and unlawful detainers, may be heard and determined by any associate circuit judge of the county in which they are committed. Neither the provisions of this section or any other section in this chapter shall preclude adoption of a local circuit court rule providing for the centralized filing of such cases, nor the assignment of such cases to particular associate circuit or circuit judges pursuant to local circuit court rule or action by the presiding judge of the circuit. Such cases shall be heard and determined by associate circuit

judges unless a circuit judge is transferred or assigned to hear such case or cases or unless the plaintiff pursuant to subsection 2 of section 478.250 has designated the case as one to be heard under the practice and procedure applicable before circuit judges [and the case is heard by a circuit judge. If the case is heard before an associate circuit judge who has not been specially assigned to hear the case on the record]. **All cases under this chapter shall be heard on the record. Unless the plaintiff under subsection 2 of section 478.250 has designated the case as one to be heard under the practice and procedure applicable before circuit judges**, to the extent practice and procedure are not provided in this chapter the practice and procedure provided in chapter 517 shall apply. If the [case is heard initially before an associate circuit judge who has been specially assigned to hear the case on a record or before a circuit judge, the case shall be heard and determined under the same practice and procedure as would apply if the case was being heard upon an application for trial de novo, and in such instances, notwithstanding the specific references to chapter 517 in this chapter,] **plaintiff under subsection 2 of section 478.250 has designated the case as one to be heard under the practice and procedure applicable before circuit judges, the case shall be heard and determined under** the **rules of** practice and procedure provided in the Missouri Rules of Civil Procedure [and the extant provisions of The Civil Code of Missouri shall apply] instead of those contained in chapter 517**, notwithstanding the specific references to chapter 517 in this chapter**.

534.350. EXECUTION — WHEN ISSUED AND LEVIED. — The judge rendering judgment in any such cause may issue execution at any time after judgment, but such execution shall not be levied until after the expiration of the time allowed for [the filing of an application for trial de novo or] the taking of an appeal, except as in the next succeeding section is provided.

534.360. EXECUTION, WHEN DEFENDANT IS ABOUT TO ABSCOND. — If it shall appear to the officer having charge of the execution that the defendant therein is about to remove, conceal or dispose of his property, so as to hinder or delay the levy, the rents and profits, damages and costs may be levied before the expiration of the time allowed for [the filing of an application for a trial de novo or] taking an appeal.

534.380. JUDGMENT STAY FOR APPEALS. — Applications for [trials de novo and] appeals shall be allowed and conducted in the manner provided in chapter 512 **as in other civil cases**. Application for [a trial de novo or] appeal shall not stay execution for restitution of the premises unless the defendant gives bond within the time for appeal. The bond shall be for the amount of the judgment and with the condition to stay waste and to pay all subsequently accruing rent, if any, into court within ten days after it becomes due, pending determination of the [trial de novo or] appeal, subject to the judge's discretion. However, in any case in which the defendant receives a reduction in rent due to a local, state or federal subsidy program, the amount of the bond shall be reduced by the amount of said subsidy. Execution other than for restitution shall be stayed if the defendant files a bond in the proper amount at such time as otherwise provided by law.

535.030. SERVICE OF SUMMONS — COURT DATE INCLUDED IN SUMMONS. — 1. Such summons shall be served as in other civil cases at least four days before the court date in the summons. The summons shall include a court date which shall not be more than twenty-one business days from the date the summons is issued unless at the time of filing the affidavit the plaintiff or plaintiff's attorney consents in writing to a later date.

2. In addition to attempted personal service, the plaintiff may request, and thereupon the clerk of the court shall make an order directing that the officer, or other person empowered to execute the summons, shall also serve the same by securely affixing a copy of such summons and the complaint in a conspicuous place on the dwelling of the premises in question at least ten days before the court date in such summons, and by also mailing a copy of the summons and

complaint to the defendant at the defendant's last known address by ordinary mail at least ten days before the court date. If the officer, or other person empowered to execute the summons, shall return that the defendant is not found, or that the defendant has absconded or vacated his or her usual place of abode in this state, and if proof be made by affidavit of the posting and of the mailing of a copy of the summons and complaint, the judge shall at the request of the plaintiff proceed to hear the case as if there had been personal service, and judgment shall be rendered and proceedings had as in other cases, except that no money judgment shall be granted the plaintiff where the defendant is in default and service is by the posting and mailing procedure set forth in this section.

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

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

535.110. APPEALS, DEFENDANT TO FURNISH BOND TO STAY EXECUTION. — Applications for **[**trials de novo and**]** appeals shall be allowed and conducted in the manner provided in chapter 512 **as in other civil cases**; but no application for **[**a trial de novo or**] an** appeal shall stay execution unless the defendant give bond, with security sufficient to secure the payment of all damages, costs and rent then due, and with condition to stay waste and to pay all subsequently accruing rent, if any, into court within ten days after it becomes due, pending determination of the **[**trial de novo or**]** appeal.

535.160. TENDER OF RENT AND COSTS ON JUDGMENT DATE, EFFECT — NOT BAR TO LANDLORD'S APPEAL — NO STAY OF EXECUTION IF NO MONEY JUDGMENT, EXCEPTIONS. — If the defendant, on the date any money judgment is given in any action pursuant to this chapter, either tenders to the landlord, or brings into the court where the suit is pending, all the rent then in arrears, and all the costs, further proceedings in the action shall cease and be stayed. If on any date after the date of any original trial **[**but before any trial de novo**]** the defendant shall satisfy such money judgment and pay all costs, any execution for possession of the subject premises shall cease and be stayed; except that the landlord shall not thereby be precluded from making application for appeal from such money judgment. If for any reason no money judgment is entered against the defendant and judgment for the plaintiff is limited only to possession of the subject premises, no stay of execution shall be had, except as provided by the provisions of section 535.110 or the rules of civil procedure or by agreement of the parties.

535.170. LESSEE BARRED FROM RELIEF, WHEN — APPEAL PERMITTED, WHEN. — After the execution of any judgment for possession pursuant to this chapter, the lessee and the lessee's assignees, and all other persons deriving title under the lease from such lessee, shall be barred from reentry of such premises and from all relief, and except for error in the record or proceedings, the landlord shall from that day hold the demised premises discharged from the lease. Nothing in this section shall preclude an aggrieved party from perfecting an appeal **[**or securing a trial de novo**]** as to any judgment rendered, and may as a result of such appeal **[**or trial de novo**]** recover any damage incurred, including damages incurred from an unlawful dispossession.

535.200. LANDLORD-TENANT COURT AUTHORIZED IN CITY OF ST. LOUIS, JURISDICTION — LANDLORD-TENANT COMMISSIONERS, POWERS AND QUALIFICATIONS — LANDLORD-TENANT COURT PROCEDURES. — 1. In the twenty-second judicial circuit, upon adoption of an ordinance by the city of St. Louis providing for expenditure of city funds for such purpose, a majority of the circuit judges, en banc, may establish a landlord-tenant court, which shall be a division of the circuit court, and may authorize the appointment of not more than two landlord-tenant court commissioners. The landlord-tenant court commissioners shall be appointed by a landlord-tenant court judicial commission consisting of the presiding judge of the circuit, who shall be the chair, one circuit judge elected by the circuit judges, one associate circuit judge elected by the associate circuit judges of the circuit, and two members appointed by the mayor of the city of St. Louis, each of whom shall represent one of the two political parties casting the highest number of votes at the next preceding gubernatorial election. The procedures and operations of the landlord-tenant court judicial commission shall be established by circuit court rule.

2. Landlord-tenant commissioners may be authorized to hear in the first instance disputes involving landlords and their tenants. Landlord-tenant commissioners shall be authorized to make findings of fact and conclusions of law, and to issue orders for the payment of money, for the giving or taking of possession of residential property and any other equitable relief necessary to resolve disputes governed by the laws in chapters 441, 524, 534, and this chapter. Landlord-tenant commissioners may not, by ex parte means, hear cases and issue orders.

3. Landlord-tenant commissioners shall be licensed to practice law in this state and shall serve at the pleasure of a majority of the circuit and associate circuit judges, en banc, and shall be residents of the city of St. Louis, and shall receive as annual compensation an amount equal to one-third of the annual compensation of an associate circuit judge. Landlord-tenant commissioners shall not accept or handle cases in their practice of law which are inconsistent with their duties as a landlord-tenant commissioner and shall not be a judge or prosecutor for any other court. Landlord-tenant commissioners shall not be considered state employees and shall not be members of the state employees' or judicial retirement system or be eligible to receive any other employment benefit accorded state employees or judges.

4. A majority of the judges of the circuit, en banc, shall establish operating procedures for the landlord-tenant court. Proceedings in the landlord-tenant court shall be conducted as in cases tried before an associate circuit judge. The hearing shall be before a landlord-tenant commissioner without jury, and the commissioner shall assume an affirmative duty to determine the merits of the evidence presented and the defenses of the defendant and may question parties and witnesses. Clerks and computer personnel shall be assigned as needed for the efficient operation of the court.

5. The parties to a cause of action before a commissioner of the landlord-tenant court are entitled to file with the court a motion for a hearing in associate circuit court within ten days after the mailing, or within ten days after service.

6. Operating procedures shall be provided for electronic recording of proceedings at city expense. Any person aggrieved by a judgment in a case decided under this section shall have a right to **[**a trial de novo in circuit court, or**]** an appeal to the appropriate appellate court, in the

same manner as would a person aggrieved by a decision of an associate circuit judge under section 535.110. The procedures for perfecting the right of **[**a trial de novo or**]** **an** appeal shall be the same as that provided pursuant to sections 512.180 to 512.320.

7. Any summons issued for the proceedings in the landlord-tenant court shall have a return date of ten days. The sheriff must attempt to serve any summons within four days of the date of issuance.

8. All costs to establish and operate a landlord-tenant court under this section shall be borne by the city of St. Louis.

535.210. LANDLORD-TENANT COURT AUTHORIZED IN JACKSON COUNTY, JURISDICTION — LANDLORD-TENANT COMMISSIONERS, POWERS AND QUALIFICATIONS — LANDLORD-TENANT COURT PROCEDURES. — 1. In the sixteenth judicial circuit, upon adoption of an ordinance by Jackson County providing for expenditure of county funds for such purpose, a majority of the circuit court judges, en banc, may establish a landlord-tenant court, which shall be a division of the circuit court, and may authorize the appointment of not more than two landlord-tenant court commissioners. The landlord-tenant court commissioners shall be appointed by a landlord-tenant court judicial commission consisting of the presiding judge of the circuit, who shall be the chair, one circuit judge elected by the circuit judges, one associate circuit judge elected by the associate circuit judges of the circuit, and two members appointed by the county executive of Jackson County, each of whom shall represent one of the two political parties casting the highest number of votes at the next preceding gubernatorial election. The procedures and operations of the landlord-tenant court judicial commission shall be established by circuit court rule.

2. Landlord-tenant commissioners may be authorized to hear in the first instance disputes involving landlords and their tenants. Landlord-tenant commissioners shall be authorized to make findings of fact and conclusions of law, and to issue orders for the payment of money, for the giving or taking of possession of residential property and any other equitable relief necessary to resolve disputes governed by the laws in chapters 441, 524, 534, and this chapter. Landlord-tenant commissioners may not, by ex parte means, hear cases and issue orders.

3. Landlord-tenant commissioners shall be licensed to practice law in this state and shall serve at the pleasure of a majority of the circuit and associate circuit judges, en banc, and shall be residents of Jackson County, and shall receive as annual compensation an amount equal to one-third of the annual compensation of an associate circuit judge. Landlord-tenant commissioners shall not accept or handle cases in their practice of law which are inconsistent with their duties as a landlord-tenant commissioner and shall not be a judge or prosecutor for any other court. Landlord-tenant commissioners shall not be considered state employees and shall not be members of the state employees' or judicial retirement system or be eligible to receive any other employment benefit accorded state employees or judges.

4. A majority of the judges of the circuit court, en banc, shall establish operating procedures for the landlord-tenant court. Proceedings in the landlord-tenant court, shall be conducted as in cases tried before an associate circuit judge. The hearing shall be before a landlord-tenant commissioner without jury, and the commissioner shall assume an affirmative duty to determine the merits of the evidence presented and the defenses of the defendant and may question parties and witnesses. Clerks and computer personnel shall be assigned as needed for the efficient operation of the court.

5. The parties to a cause of action before a commissioner of the landlord-tenant court are entitled to file with the court a motion for a hearing in associate circuit court within ten days after the mailing, or within ten days after service.

6. Operating procedures shall be provided for electronic recording of proceedings at county expense. Any person aggrieved by a judgment in a case decided under this section shall have a right to **[**a trial de novo in circuit court, or**]** an appeal to the appropriate appellate court, in the same manner as would a person aggrieved by a decision of an associate circuit judge under

section 535.110. The procedures for perfecting the right of **[**a trial de novo or**]** **an** appeal shall be the same as that provided pursuant to sections 512.180 to 512.320.

7. Any summons issued for the proceedings in the landlord-tenant court shall have a return date of ten days from the date of service. **[**The sheriff**]** **Service** must **[**attempt to serve any summons**]** **be attempted** within four days of the date of issuance.

8. All costs to establish and operate a landlord-tenant court under this section shall be borne by Jackson County.

569.130. CLAIM OF RIGHT. — 1. A person does not commit an offense by damaging, tampering with, operating, riding in or upon, or making connection with property of another if he **or she** does so under a claim of right and has reasonable grounds to believe he **or she** has such a right.

2. The defendant shall have the burden of injecting the issue of claim of right.

3. No person who, as a tenant, willfully or wantonly destroys, defaces, damages, impairs, or removes any part of a leased structure or dwelling unit, or the facilities, equipment, or appurtenances thereof, may inject the issue of claim of right.

Approved July 8, 2014

HB 1411 [SS SCS HB 1411]

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

Requires persons younger than 17 years of age using a tanning device in a tanning facility to have the parent or guardian of the minor give written consent in person to the minor's use of a tanning device

AN ACT to amend chapter 577, RSMo, by adding thereto one new section relating to tanning facilities, with a penalty provision.

SECTION

A. Enacting clause.

577.665. Minors, parental consent required, when — definitions — standard consent form — violations, penalty — contingent effective date.

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

SECTION A. ENACTING CLAUSE. — Chapter 577, RSMo, is amended by adding thereto one new section, to be known as section 577.665, to read as follows:

577.665. MINORS, PARENTAL CONSENT REQUIRED, WHEN — DEFINITIONS — STANDARD CONSENT FORM — VIOLATIONS, PENALTY — CONTINGENT EFFECTIVE DATE. — **1. As used in this section, the following terms shall mean:**

(1) "Tanning device", any equipment that emits electromagnetic radiation with wavelengths in the air between two hundred and four hundred nanometers used for tanning of the skin, including but not limited to a sunlamp, tanning booth or tanning bed;

(2) "Tanning facility", any location, place, area, structure, or business which provides persons access to any tanning device for a fee, membership dues, or any other form of compensation.

2. Prior to any person less than seventeen years of age using a tanning device in a tanning facility, a parent or guardian of such person shall annually appear in person at

the tanning facility and sign a written statement acknowledging that the parent or guardian has read and understands the warnings given by the tanning facility and consents to the person's use of a tanning device at the tanning facility.

3. The department of health and senior services shall, by rule, develop a standard consent form to be used by all tanning facilities operating in this state. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2014, shall be invalid and void.

4. Any tanning facility that violates the provisions of this section shall be subject to a fine of one hundred dollars for a first violation, two hundred fifty dollars for a second violation, and five hundred dollars for each subsequent violation. Every use of a tanning device in a tanning facility in violation of this section is a separate offense.

5. The duties and penalties provided under this section shall not take effect or be enforced until the rule containing the standard consent form has been adopted pursuant to subsection 3 of this section.

Approved June 5, 2014

HB 1412 [HCS HB 1412]

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

Specifies that it shall be a crime to intentionally file a fraudulent financing statement or any financing statement with the Secretary of State with the intent to harass or defraud any other person

AN ACT to repeal sections 400.9-501 and 400.9-516, RSMo, and to enact in lieu thereof two new sections relating to the filing of fraudulent documents, with penalty provisions.

SECTION
A. Enacting clause.
400.9-501. Filing office.
400.9-516. What constitutes filing — effectiveness of filing.

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

SECTION A. ENACTING CLAUSE. — Sections 400.9-501 and 400.9-516, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 400.9-501 and 400.9-516, to read as follows:

400.9-501. FILING OFFICE. — (a) Except as otherwise provided in subsection (b), if the local law of this state governs perfection of a security interest or agricultural lien, the office in which to file a financing statement to perfect the security interest or agricultural lien is:

(1) The office designated for the filing or recording of a record of a mortgage on the related real property, if:

(A) The collateral is as-extracted collateral or timber to be cut; or

(B) The financing statement is filed as a fixture filing and the collateral is goods that are or are to become fixtures; or

(2) The office of the secretary of state in all other cases, including a case in which the collateral is goods that are or are to become fixtures and the financing statement is not filed as a fixture filing.

(b) The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the secretary of state. The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become fixtures.

(c) A person shall not knowingly or intentionally file, attempt to file, or record any document related to real property with a recorder of deeds under chapter 59 or a financing statement with the secretary of state under subdivision (2) of subsection (a) or subsection (b) of this section, with the intent that such document or statement be used to harass or defraud any other person or knowingly or intentionally file, attempt to file, or record such a document or statement that is materially false or fraudulent.

(1) A person who violates this subsection shall be guilty of a class D felony.

(2) If a person is convicted of a violation under this subsection, the court may order restitution.

(d) In the alternative to the provisions of sections 428.105 through 428.135, if a person files a false or fraudulent financing statement with the secretary of state under subdivision (2) of subsection (a) or subsection (b) of this section, a debtor named in that financing statement may file an action against the person that filed the financing statement seeking appropriate equitable relief, actual damages, or punitive damages, including, but not limited to, reasonable attorney fees.

400.9-516. WHAT CONSTITUTES FILING — EFFECTIVENESS OF FILING. — (a) Except as otherwise provided in subsection (b), communication of a record to a filing office and tender of the filing fee or acceptance of the record by the filing office constitutes filing.

(b) Filing does not occur with respect to a record that a filing office refuses to accept because:

(1) The record is not communicated by a method or medium of communication authorized by the filing office;

(2) An amount equal to or greater than the applicable filing fee is not tendered;

(3) The filing office is unable to index the record because:

(A) In the case of an initial financing statement, the record does not provide a name for the debtor;

(B) In the case of an amendment or correction statement, the record:

(i) Does not identify the initial financing statement as required by section 400.9-512 or 400.9-518, as applicable; or

(ii) Identifies an initial financing statement whose effectiveness has lapsed under section 400.9-515;

(C) In the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name; or

(D) In the case of a record filed or recorded in the filing office described in section 400.9-501(a)(1), the record does not provide a sufficient description of the real property to which it relates;

(4) In the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;

(5) In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:

(A) Provide a mailing address for the debtor; or

(B) Indicate whether the name provided as the name of the debtor is the name of an individual or an organization;

(6) In the case of an assignment reflected in an initial financing statement under section 400.9-514(a) or an amendment filed under section 400.9-514(b), the record does not provide a name and mailing address for the assignee; **[**or**]**

(7) In the case of a continuation statement, the record is not filed within the six-month period prescribed by section 400.9-515(d)**;**

(8) The secretary of state has reasonable cause to believe the record is materially false or fraudulent; or

(9) The record on its face reveals, based on factors such as whether the debtor and the secured party are substantially the same person, the individual debtor is a transmitting utility, or whether the collateral described is within the scope of this chapter, that the record is being filed for a purpose other than a transaction that is within the scope of this chapter. This includes a record that asserts a claim against a current or former employee or officer of a federal, state, county, or other local governmental unit that relates to the performance of the officer's or employee's public duties, and for which the filer does not hold a properly executed security agreement or judgment from a court of competent jurisdiction.

(c) For purposes of subsection (b):

(1) A record does not provide information if the filing office is unable to read or decipher the information; **[**and**]**

(2) A record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by section 400.9-512, 400.9-514 or 400.9-518, is an initial financing statement**; and**

(3) A document, instrument, or record shall be presumed to be materially false or fraudulent if the document, instrument, or record is filed by an offender or on behalf of an offender. This presumption may be rebutted by providing the secretary of state the original or a copy of a sworn and notarized document signed by the obligor, debtor, or owner of the property designated as collateral stating that the person entered into a security agreement with the offender and authorized the filing of the instrument as provided in section 400.9-509. For the purposes of this subdivision the term "offender" shall have the same definition as provided in section 217.010, except, it shall only include inmates in the custody of the department of corrections.

(d) A record that is communicated to the filing office with tender of the filing fee, but which the filing office refuses to accept for a reason other than one set forth in subsection (b), is effective as a filed record except as against a purchaser of the collateral which gives value in reasonable reliance upon the absence of the record from the files.

(e) In the alternative to the provisions of sections 428.105 through 428.135, if an information statement filed with the secretary of state under section 400.9-518 alleges that a previously filed record was wrongfully filed, the secretary of state shall, without undue delay, determine whether the contested record was wrongfully filed. To determine whether the record was wrongfully filed, the secretary of state may require the person who filed the information statement or the secured party to provide any additional relevant information, including an original or copy of a security agreement that is related to the record. If the secretary of state finds that the record was wrongfully filed, the secretary of state shall terminate the record and the record shall be void and ineffective. The secretary of state shall notify the secured party named in the contested record of the termination.

Approved June 27, 2014

HB 1426 [HCS HB 1426]

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

Enacts provisions relating to the disclosure of personal identifying information during a disaster or emergency

AN ACT to amend chapter 44, RSMo, by adding thereto one new section relating to personal identifying information in disasters or emergencies.

SECTION
A. Enacting clause.
44.035. Persons with health-related ailments, voluntary county registry for disasters or emergencies.

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

SECTION A. ENACTING CLAUSE. — Chapter 44, RSMo, is amended by adding thereto one new section, to be known as section 44.035, to read as follows:

44.035. PERSONS WITH HEALTH-RELATED AILMENTS, VOLUNTARY COUNTY REGISTRY FOR DISASTERS OR EMERGENCIES. — Any county may create a voluntary registry of persons with health-related ailments to assist individuals in case of a disaster or emergency. No name, address, or any other personal identifying information used in such a voluntary registry shall be deemed a public record under chapter 610. If a disaster or emergency occurs that involves any person listed on the registry, an incident report as defined in chapter 610.100 shall be made public.

Approved July 3, 2014

HB 1454 [HB 1454]

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

Changes the laws regarding communications infrastructure deployment

AN ACT to repeal section 67.5098 as enacted by senate substitute for senate committee substitute for senate bill no. 650, ninety seventh general assembly, second regular session, and to enact in lieu thereof one new section relating to communications infrastructure deployment.

SECTION
A. Enacting clause.
67.5098. Modification of structures, applicant requirements — authority's duties — court review, when.

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

SECTION A. ENACTING CLAUSE. — Section 67.5098 as enacted by senate substitute for senate committee substitute for senate bill no. 650, ninety seventh general assembly, second regular session, is repealed and one new section enacted in lieu thereof, to be known as section 67.5098, to read as follows:

67.5098. MODIFICATION OF STRUCTURES, APPLICANT REQUIREMENTS — AUTHORITY'S DUTIES — COURT REVIEW, WHEN. — 1. Authorities may continue to exercise zoning, land use, planning, and permitting authority within their territorial boundaries with regard to applications for substantial modifications of wireless support structures, subject to the provisions of sections 67.5090 to 67.5103, including without limitation section 67.5094, and subject to federal law.

2. Any applicant that applies for a substantial modification of a wireless support structure within the jurisdiction of any authority, planning or otherwise, that has adopted planning and zoning regulations in accordance with sections 67.5090 to 67.5103 shall:

(1) Submit the necessary copies and attachments of the application to the appropriate authority. Each application shall include a copy of a lease, letter of authorization or other agreement from the property owner evidencing applicant's right to pursue the application; and

(2) Comply with applicable local ordinances concerning land use and the appropriate permitting processes.

3. Disclosure of records in the possession or custody of authority personnel, including but not limited to documents and electronic data, shall be subject to chapter 610.

4. The authority, within **[**ninety**]** **one hundred twenty** calendar days of receiving an application for a substantial modification of wireless support structures, shall:

(1) Review the application in light of its conformity with applicable local zoning regulations. An application is deemed to be complete unless the authority notifies the applicant in writing, within thirty calendar days of submission of the application, of the specific deficiencies in the application which, if cured, would make the application complete. Upon receipt of a timely written notice that an application is deficient, an applicant may take thirty calendar days from receiving such notice to cure the specific deficiencies. If the applicant cures the deficiencies within thirty calendar days, the application shall be reviewed and processed within **[**ninety**]** **one hundred twenty** calendar days from the initial date the application was received. If the applicant requires a period of time beyond thirty calendar days to cure the specific deficiencies, the **[**ninety**]** **one hundred twenty** calendar days' deadline for review shall be extended by the same period of time;

(2) Make its final decision to approve or disapprove the application; and

(3) Advise the applicant in writing of its final decision.

5. If the authority fails to act on an application for a substantial modification within the **[**ninety**]** **one hundred twenty** calendar days' review period specified under subsection 4 of this section, or within such additional time as may be mutually agreed to by an applicant and an authority, the application for a substantial modification shall be deemed approved.

6. A party aggrieved by the final action of an authority, either by its affirmatively denying an application under the provisions of this section or by its inaction, may bring an action for review in any court of competent jurisdiction **within this state**.

Approved June 23, 2014

HB 1459 [HCS HB 1459]

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

Authorizes the Innovation Campus Tax Credit

AN ACT to amend chapter 620, RSMo, by adding thereto one new section relating to the innovation campus tax credit.

SECTION

A. Enacting clause.

620.2600. Tax credit authorized — definitions — eligibility — rulemaking authority — sunset provision.

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

SECTION A. ENACTING CLAUSE. — Chapter 620, RSMo, is amended by adding thereto one new section, to be known as section 620.2600, to read as follows:

620.2600. TAX CREDIT AUTHORIZED — DEFINITIONS — ELIGIBILITY — RULEMAKING AUTHORITY — SUNSET PROVISION. — 1. This section shall be known and may be cited as the "Innovation Campus Tax Credit Act".

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

(1) "Certificate", a tax credit certificate issued under this section;

(2) "Department", the Missouri department of economic development;

(3) "Eligible donation", donations received from a taxpayer by innovation campuses that are to be used solely for projects that advance learning in the areas of science, technology, engineering, and mathematics. Eligible donations may include cash, publicly traded stocks and bonds, and real estate that will be valued and documented according to the rules promulgated by the department of economic development;

(4) "Innovation education campus" or "innovation campus", as defined in section 178.1100, an educational partnership consisting of at least one of each of the following entities:

(a) A local Missouri high school or k-12 school district;

(b) A Missouri four-year public or private higher education institution;

(c) A Missouri-based business or businesses; and

(d) A Missouri two-year public higher education institution or state technical college of Missouri;

(5) "Taxpayer", any of the following individuals or entities who make an eligible donation to any innovation campus:

(a) A person, firm, partner in a firm, corporation, or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed in chapter 143;

(b) A corporation subject to the annual corporation franchise tax imposed in chapter 147;

(c) An insurance company paying an annual tax on its gross premium receipts in this state;

(d) Any other financial institution paying taxes to the state of Missouri or any political subdivisions of this state under chapter 148;

(e) An individual subject to the state income tax imposed in chapter 143;

(f) Any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143.

3. For all taxable years beginning on or after January 1, 2015, a taxpayer shall be allowed a credit against the taxes otherwise due under chapter 147, 148, or 143, excluding withholding tax imposed by sections 143.191 to 143.265, in an amount equal to fifty percent of the amount of an eligible donation, subject to the restrictions in this section. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state income tax liability in the tax year for which the credit is claimed. Any amount of credit that the taxpayer is prohibited by this section from claiming in a tax year shall not be refundable, but may be carried forward to any of the taxpayer's four subsequent taxable years.

4. To claim the credit authorized in this section, an innovation campus may submit to the department an application for the tax credit authorized by this section on behalf of taxpayers. The department shall verify that the innovation campus has submitted the following items:

(1) A valid application in the form and format required by the department;

(2) A statement attesting to the eligible donation received, which shall include the name and taxpayer identification number of the individual making the eligible donation, the amount of the eligible donation, and the date the eligible donation was received by the innovation campus; and

(3) Payment from the innovation campus equal to the value of the tax credit for which application is made. If the innovation campus applying for the tax credit meets all criteria required by this subsection, the department shall issue a certificate in the appropriate amount.

5. Tax credits issued under this section may be assigned, transferred, sold, or otherwise conveyed, and the new owner of the tax credit shall have the same rights in the credit as the taxpayer. Whenever a certificate is assigned, transferred, sold, or otherwise conveyed, a notarized endorsement shall be filed with the department specifying the name and address of the new owner of the tax credit and the value of the credit.

6. The department may promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2014, shall be invalid and void.

7. Under section 23.253 of the Missouri sunset act:

(1) The program authorized under this section shall expire six years after the effective date of this act unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

Approved July 7, 2014

HB 1490 [CCS#2 SS SCS HB 1490]

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

Changes the laws regarding academic performance and learning standards in elementary and secondary education

AN ACT to repeal sections 160.514, 160.518, 160.526, 160.820, and 161.092, RSMo, and to enact in lieu thereof eight new sections relating to elementary and secondary education standards.

SECTION

A. Enacting clause.
160.514. Academic performance standards, adoption by state board, standards — procedure for adoption — development of written curriculum frameworks — adoption of written curriculum by boards of education.
160.516. Curriculum, textbooks, and other instructional materials not to be mandated by state board or department — exceptions — appendix to common core standards not to be required.

160.518. Statewide assessment system, standards, restriction — exemplary levels, outstanding school waivers — summary waiver of pupil testing requirements — waiver void, when — scores not counted, when — alternative assessments for special education students.
160.526. Development of academic standards, learning standards, and assessment system, criteria — assistance of experts — notification of implementation of system, legislative veto — professional advice and counsel.
160.820. Departments may contract with corporation for activities.
161.092. Powers and duties of state board.
161.096. Statewide longitudinal data system, regulation on student data accessibility, transparency, and accountability required — regulation requirements — data not to be reported — rulemaking authority — violation, penalty — attorney general to enforce.
161.855. Work groups to convene, members, recommendations — state board to adopt and implement standards, when — pilot assessments — certain persons performing work to be employees of the district.

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

SECTION A. ENACTING CLAUSE. — Sections 160.514, 160.518, 160.526, 160.820, and 161.092, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 160.514, 160.516, 160.518, 160.526, 160.820, 161.092, 161.096, and 161.855, to read as follows:

160.514. ACADEMIC PERFORMANCE STANDARDS, ADOPTION BY STATE BOARD, STANDARDS — PROCEDURE FOR ADOPTION — DEVELOPMENT OF WRITTEN CURRICULUM FRAMEWORKS — ADOPTION OF WRITTEN CURRICULUM BY BOARDS OF EDUCATION. — 1. By rule and regulation, and consistent with the provisions contained in section 160.526, the state board of education shall adopt no more than seventy-five academic performance standards which establish the knowledge, skills and competencies necessary for students to successfully advance through the public elementary and secondary education system of this state; lead to or qualify a student for high school graduation; prepare students for postsecondary education or the workplace or both; and are necessary in this era to preserve the rights and liberties of the people.

2. **[**The state board of education shall convene work groups composed of education professionals to develop and recommend academic performance standards. Separate work groups composed of professionals with appropriate expertise shall be convened for each subject area listed in section 160.518. Active classroom teachers shall constitute the majority of each work group. Teachers serving on such work groups shall be selected by professional teachers' organizations of the state. Additional teachers who are not members of such organizations may serve by appointment of the state board of education**] Whenever the state board of education develops, evaluates, modifies, or revises academic performance standards or learning standards, it shall convene work groups composed of education professionals to develop and recommend such academic performance standards or learning standards. Separate work groups composed of education professionals shall be convened for the following subject areas: English language arts; mathematics; science; and history and governments. The subject area of history and governments shall incorporate geography and the history and governments of the United States and the world. For each subject area in which the state board of education develops, evaluates, modifies, or revises academic performance standards or learning standards, the state board shall convene two separate work groups, one work group for standards for grades kindergarten through five consisting of sixteen members and a second work group for standards for grades six through twelve consisting of seventeen members. A person may be selected to serve on more than one work group if he or she is qualified. No work group member shall be required to be a member of a professional teacher association. An education professional serving on a work group shall be a Missouri resident for at least three years and have taught in the work group's subject area for at least ten years or have ten years of experience in that subject area, except for the parents appointed by the president pro tempore of the senate and the speaker of the house of representatives. Work group members shall be chosen in such a manner as to represent the geographic diversity of the state.**

3. Work group members shall be selected in the following manner:

(1) Two parents of children currently enrolled in grades kindergarten through twelve shall be selected by the president pro tempore of the senate;

(2) Two parents of children currently enrolled in grades kindergarten through twelve shall be selected by the speaker of the house of representatives;

(3) One education professional selected by the state board of education from names submitted to it by the professional teachers' organizations of the state;

(4) One education professional selected by a statewide association of Missouri school boards;

(5) One education professional selected by the state board of education from names submitted to it by a statewide coalition of school administrators;

(6) Two education professionals selected by the president pro tempore of the senate in addition to the members selected under subdivision (1) of this subsection;

(7) Two education professionals selected by the speaker of the house of representatives in addition to the members selected under subdivision (2) of this subsection;

(8) One education professional selected by the governor;

(9) One education professional selected by the lieutenant governor;

(10) One education professional selected by the commissioner of higher education;

(11) One education professional selected by the state board of education from names submitted to it by nationally-recognized career and technical education student organizations operating in Missouri; and

(12) One education professional selected by the state board of education from names submitted to it by the heads of state-approved baccalaureate-level teacher preparation programs located in Missouri.

The state board of education shall also appoint to each work group for grades six through twelve from names submitted to it by a statewide organization for career and technical education one current or retired career and technical education professional who also serves or served as an advisor to any of the nationally recognized career and technical education student organizations identified in subdivision (4) of subsection 2 of section 178.550.

[3.] **4. The state board of education shall hold at least three public hearings whenever it develops, evaluates, modifies, or revises academic performance standards or learning standards. The hearings shall provide an opportunity to receive public testimony, including but not limited to testimony from educators at all levels in the state, local school boards, parents, representatives from business and industry, labor and community leaders, members of the general assembly, and the general public. The state board of education shall hold the first hearing within thirty days of the work groups being convened. The state board of education shall hold the second hearing approximately six months after it holds the first hearing. The state board of education shall hold the third hearing when the work groups submit the academic performance standards they have developed to the state board. The state board of education shall also solicit comments and feedback on the academic performance standards or learning standards from the joint committee on education and from academic researchers. All comments shall be made publicly available.**

5. The state board of education shall develop written curriculum frameworks that may be used by school districts. Such curriculum frameworks shall incorporate the academic performance standards adopted by the state board of education pursuant to subsection 1 of this section. The curriculum frameworks shall provide guidance to school districts but shall not be mandates for local school boards in the adoption or development of written curricula as required by subsection **[**4**]** **6** of this section.

[4.**]** **6.** Not later than one year after the development of written curriculum frameworks pursuant to subsection **[**3**]** **5** of this section, the board of education of each school district in the state shall adopt or develop a written curriculum designed to ensure that students attain the knowledge, skills and competencies established pursuant to subsection 1 of this section. Local school boards are encouraged to adopt or develop curricula that are rigorous and ambitious and may, but are not required to, use the curriculum frameworks developed pursuant to subsection **[**3**]** **5** of this section. Nothing in this section or this act shall prohibit school districts, as determined by local boards of education, to develop or adopt curricula that provide for academic standards in addition to those identified by the state board of education pursuant to subsection 1 of this section.

7. Local school districts and charter schools may adopt their own education standards, in addition to those already adopted by the state, provided the additional standards are in the public domain and do not conflict with the standards adopted by the state board of education.

160.516. CURRICULUM, TEXTBOOKS, AND OTHER INSTRUCTIONAL MATERIALS NOT TO BE MANDATED BY STATE BOARD OR DEPARTMENT — EXCEPTIONS — APPENDIX TO COMMON CORE STANDARDS NOT TO BE REQUIRED. — 1. Notwithstanding the provisions of section 160.514, the state board of education and the department of elementary and secondary education shall not be authorized to mandate and are expressly prohibited from mandating the curriculum, textbooks, or other instructional materials to be used in public schools. Each local school board shall be responsible for the approval and adoption of curriculum used by the school district. The provisions of this subsection shall not apply to schools and instructional programs administered by the state board of education and the department of elementary and secondary education or to school districts that are classified as unaccredited.

2. The state board of education and the department of elementary and secondary education shall not require districts to use any appendix to the common core state standards.

160.518. STATEWIDE ASSESSMENT SYSTEM, STANDARDS, RESTRICTION — EXEMPLARY LEVELS, OUTSTANDING SCHOOL WAIVERS — SUMMARY WAIVER OF PUPIL TESTING REQUIREMENTS — WAIVER VOID, WHEN — SCORES NOT COUNTED, WHEN — ALTERNATIVE ASSESSMENTS FOR SPECIAL EDUCATION STUDENTS. — 1. Consistent with the provisions contained in section 160.526, the state board of education shall develop**, modify, and revise, as necessary,** a statewide assessment system that provides maximum flexibility for local school districts to determine the degree to which students in the public schools of the state are proficient in the knowledge, skills, and competencies adopted by such board pursuant to **[**subsection 1 of**]** section 160.514. The statewide assessment system shall assess problem solving, analytical ability, evaluation, creativity, and application ability in the different content areas and shall be performance-based to identify what students know, as well as what they are able to do, and shall enable teachers to evaluate actual academic performance. The **statewide** assessment system shall neither promote nor prohibit rote memorization and shall not include existing versions of tests approved for use pursuant to the provisions of section 160.257, nor enhanced versions of such tests. **After the state board of education adopts and implements academic performance standards as required under section 161.855, the state board of education shall develop and adopt a standardized assessment instrument under this section based on the academic performance standards adopted under section 161.855.** The statewide assessment **system** shall measure, where appropriate by grade level, a student's knowledge of academic subjects including, but not limited to, reading skills, writing skills, mathematics skills, world and American history, forms of government, geography and science.

2. The **statewide** assessment system shall only permit the academic performance of students in each school in the state to be tracked against prior academic performance in the same school.

3. The state board of education shall suggest**, but not mandate,** criteria for a school to demonstrate that its students learn the knowledge, skills and competencies at exemplary levels worthy of imitation by students in other schools in the state and nation. Exemplary levels shall be measured by the **statewide** assessment system developed pursuant to subsection 1 of this section, or until said **statewide** assessment **system** is available, by indicators approved for such use by the state board of education. The provisions of other law to the contrary notwithstanding, the commissioner of education may, upon request of the school district, present a plan for the waiver of rules and regulations to any such school, to be known as "Outstanding Schools Waivers", consistent with the provisions of subsection 4 of this section.

4. For any school that meets the criteria established by the state board of education for three successive school years pursuant to the provisions of subsection 3 of this section, by August first following the third such school year, the commissioner of education shall present a plan to the superintendent of the school district in which such school is located for the waiver of rules and regulations to promote flexibility in the operations of the school and to enhance and encourage efficiency in the delivery of instructional services. The provisions of other law to the contrary notwithstanding, the plan presented to the superintendent shall provide a summary waiver, with no conditions, for the pupil testing requirements pursuant to section 160.257, in the school. Further, the provisions of other law to the contrary notwithstanding, the plan shall detail a means for the waiver of requirements otherwise imposed on the school related to the authority of the state board of education to classify school districts pursuant to subdivision (9) of section 161.092 and such other rules and regulations as determined by the commissioner of education, excepting such waivers shall be confined to the school and not other schools in the district unless such other schools meet the criteria established by the state board of education consistent with subsection 3 of this section and the waivers shall not include the requirements contained in this section and section 160.514. Any waiver provided to any school as outlined in this subsection shall be void on June thirtieth of any school year in which the school fails to meet the criteria established by the state board of education consistent with subsection 3 of this section.

5. The score on any assessment test developed pursuant to this section or this chapter of any student for whom English is a second language shall not be counted until such time as such student has been educated for three full school years in a school in this state, or in any other state, in which English is the primary language.

6. The state board of education shall identify or, if necessary, establish one or more developmentally appropriate alternate assessments for students who receive special educational services, as that term is defined pursuant to section 162.675. In the development of such alternate assessments, the state board shall establish an advisory panel consisting of a majority of active special education teachers **residing in Missouri** and other education professionals as appropriate to research available assessment options. The advisory panel shall attempt to identify preexisting developmentally appropriate alternate assessments but shall, if necessary, develop alternate assessments and recommend one or more alternate assessments for adoption by the state board. The state board shall consider the recommendations of the advisory council in establishing such alternate assessment or assessments. Any student who receives special educational services, as that term is defined pursuant to section 162.675, shall be assessed by an alternate assessment established pursuant to this subsection upon a determination by the student's individualized education program team that such alternate assessment is more appropriate to assess the student's knowledge, skills and competencies than the assessment developed pursuant to subsection 1 of this section. The alternate assessment shall evaluate the student's independent living skills, which include how effectively the student addresses common life demands and how well the student meets standards for personal independence expected for someone in the student's age group, sociocultural background, and community setting.

7. The state board of education shall also develop recommendations regarding alternate assessments for any military dependent who relocates to Missouri after the commencement of a school term, in order to accommodate such student while ensuring that he or she is proficient in the knowledge, skills, and competencies adopted under section 160.514.

[8. Notwithstanding the provisions of subsections 1 to 7 of this section, no later than June 30, 2006, the state board of education shall administer the following adjustments to the statewide assessment system:

(1) Align the performance standards of the statewide assessment system so that such indicators meet, but do not exceed, the performance standards of the National Assessment of Education Progress (NAEP) exam;

(2) Institute yearly examination of students in the required subject areas where compelled by existing federal standards, as of August 28, 2004; and

(3) Administer any other adjustments that the state board of education deems necessary in order to aid the state in satisfying existing federal requirements, as of August 28, 2004, including, but not limited to, the requirements contained in the federal No Child Left Behind Act. Grade-level expectations shall be considered when the state board of education establishes performance standards.

9. By July 1, 2006, the state board of education shall examine its rules and regulations and revise them to permit waivers of resource and process standards based upon achievement of performance profiles consistent with accreditation status.**]**

160.526. DEVELOPMENT OF ACADEMIC STANDARDS, LEARNING STANDARDS, AND ASSESSMENT SYSTEM, CRITERIA — ASSISTANCE OF EXPERTS — NOTIFICATION OF IMPLEMENTATION OF SYSTEM, LEGISLATIVE VETO — PROFESSIONAL ADVICE AND COUNSEL. — 1. In establishing**, evaluating, modifying, and revising** the academic **performance** standards **and learning standards** authorized by **[**subsection 1 of**]** section 160.514 and the statewide assessment system authorized by subsection 1 of section 160.518, the state board of education shall consider the work that has been done by other states, recognized regional and national experts, professional education discipline-based associations **[**and**] ,** other professional education associations**, the work product from the department of higher education's curriculum alignment initiative, or any other work in the public domain**. **[**Further, in establishing the academic standards and statewide assessment system, the state board of education shall adopt the work that has been done by consortia of other states and, subject to appropriations, may contract with such consortia to implement the provisions of sections 160.514 and 160.518.**]**

2. The state board of education shall**[,]** by contract enlist the assistance of such national experts**[**, as approved by the commission established pursuant to section 160.510,**]** to receive reports, advice and counsel on a regular basis pertaining to the validity and reliability of the statewide assessment system. The reports from such experts shall be received by the **[**commission, which shall make a final determination concerning the reliability and validity of the statewide assessment system**] state board of education**. Within six months prior to implementation of **or modification or revision to** the statewide assessment system, the commissioner of education shall inform the president pro tempore of the senate and the speaker of the house **of representatives** about the procedures to implement**, modify, or revise** the **statewide** assessment system, including a report related to the reliability and validity of the assessment instruments, and the general assembly may, within the next sixty legislative days, veto such implementation**, modification, or revision** by concurrent resolution adopted by majority vote of both the senate and the house of representatives.

3. The commissioner of education shall establish a procedure for the state board of education to regularly receive advice and counsel from professional educators at all levels in the state, district boards of education, parents, representatives from business and industry, **the general assembly,** and labor and community leaders pertaining to the implementation of sections

160.514 and 160.518. **By December 31, 2014, the commissioner of education shall revise this procedure to allow the state board of education to regularly receive advice and counsel from professional educators at all levels in the state, district boards of education, parents, representatives from business and industry, the general assembly, and labor and community leaders whenever the state board develops, evaluates, modifies, or revises academic performance standards, learning standards, or the statewide assessment system under sections 160.514 and 160.518.** The procedure shall include, at a minimum, the appointment of ad hoc committees **[**and shall be in addition to the advice and counsel obtained from the commission pursuant to section 160.510**]**.

160.820. DEPARTMENTS MAY CONTRACT WITH CORPORATION FOR ACTIVITIES. — In order to assist the corporation in achieving the objectives identified in section 160.810, the department of economic development, department of elementary and secondary education, and department of higher education may contract with the corporation for activities consistent with the corporation's purpose, as specified in section 160.805, including but not limited to the employment of any personnel of the corporation, administrative services, and provision of office space. When contracting with the corporation under the provisions of this section, the departments **[**may directly enter into agreements with the corporation and**]** shall **[**not**]** be bound by the provisions of chapter 34.

161.092. POWERS AND DUTIES OF STATE BOARD. — The state board of education shall:

(1) Adopt rules governing its own proceedings and formulate policies for the guidance of the commissioner of education and the department of elementary and secondary education;

(2) Carry out the educational policies of the state relating to public schools that are provided by law and supervise instruction in the public schools;

(3) Direct the investment of all moneys received by the state to be applied to the capital of any permanent fund established for the support of public education within the jurisdiction of the department of elementary and secondary education and see that the funds are applied to the branches of educational interest of the state that by grant, gift, devise or law they were originally intended, and if necessary institute suit for and collect the funds and return them to their legitimate channels;

(4) Cause to be assembled information which will reflect continuously the condition and management of the public schools of the state;

(5) Require of county clerks or treasurers, boards of education or other school officers, recorders and treasurers of cities, towns and villages, copies of all records required to be made by them and all other information in relation to the funds and condition of schools and the management thereof that is deemed necessary;

(6) Provide blanks suitable for use by officials in reporting the information required by the board;

(7) When conditions demand, cause the laws relating to schools to be published in a separate volume, with pertinent notes and comments, for the guidance of those charged with the execution of the laws;

(8) Grant, without fee except as provided in section 168.021, certificates of qualification and licenses to teach in any of the public schools of the state, establish requirements therefor, formulate regulations governing the issuance thereof, and cause the certificates to be revoked for the reasons and in the manner provided in section 168.071;

(9) Classify the public schools of the state, subject to limitations provided by law and subdivision (14) of this section, establish requirements for the schools of each class, and formulate rules governing the inspection and accreditation of schools preparatory to classification, with such requirements taking effect not less than two years from the date of adoption of the proposed rule by the state board of education, provided that this condition shall not apply to any requirement for which a time line for adoption is mandated in either federal or

state law**. Such rules shall include a process to allow any district that is accredited without provision that does not meet the state board's promulgated criteria for a classification designation of accredited with distinction to propose alternative criteria to the state board to be classified as accredited with distinction**;

(10) Make an annual report on or before the first Wednesday after the first day of January to the general assembly or, when it is not in session, to the governor for publication and transmission to the general assembly. The report shall be for the last preceding school year, and shall include:

(a) A statement of the number of public schools in the state, the number of pupils attending the schools, their sex, and the branches taught;

(b) A statement of the number of teachers employed, their sex, their professional training, and their average salary;

(c) A statement of the receipts and disbursements of public school funds of every description, their sources, and the purposes for which they were disbursed;

(d) Suggestions for the improvement of public schools; and

(e) Any other information relative to the educational interests of the state that the law requires or the board deems important;

(11) Make an annual report to the general assembly and the governor concerning coordination with other agencies and departments of government that support family literacy programs and other services which influence educational attainment of children of all ages;

(12) Require from the chief officer of each division of the department of elementary and secondary education, on or before the thirty-first day of August of each year, reports containing information the board deems important and desires for publication;

(13) Cause fifty copies of its annual report to be reserved for the use of each division of the state department of elementary and secondary education, and ten copies for preservation in the state library;

(14) Promulgate rules under which the board shall classify the public schools of the state; provided that the appropriate scoring guides, instruments, and procedures used in determining the accreditation status of a district shall be subject to a public meeting upon notice in a newspaper of general circulation in each of the three most populous cities in the state and also a newspaper that is a certified minority business enterprise or woman-owned business enterprise in each of the two most populous cities in the state, and notice to each district board of education, each superintendent of a school district, and to the speaker of the house of representatives, the president pro tem of the senate, and the members of the joint committee on education, at least fourteen days in advance of the meeting, which shall be conducted by the department of elementary and secondary education not less than ninety days prior to their application in accreditation, with all comments received to be reported to the state board of education;

(15) Have other powers and duties prescribed by law.

161.096. STATEWIDE LONGITUDINAL DATA SYSTEM, REGULATION ON STUDENT DATA ACCESSIBILITY, TRANSPARENCY, AND ACCOUNTABILITY REQUIRED — REGULATION REQUIREMENTS — DATA NOT TO BE REPORTED — RULEMAKING AUTHORITY — VIOLATION, PENALTY — ATTORNEY GENERAL TO ENFORCE. — 1. The state board of education shall promulgate a rule relating to student data accessibility, transparency, and accountability relating to the statewide longitudinal data system. This rule shall mandate that the department of elementary and secondary education do the following:

(1) Create and make publicly available a data inventory and index of data elements with definitions of individual student data fields in the student data system to include, but not be limited to:

(a) Any personally identifiable student data required to be reported by state and federal education laws; and

(b) Any other individual student data which has been proposed for inclusion in the student data system with a statement regarding the purpose or reason for the proposed collection;

(2) Develop policies to comply with all relevant state and federal privacy laws and policies, including but not limited to the federal Family Educational Rights and Privacy Act (FERPA) and other relevant privacy laws and policies. These policies shall include, but not be limited to the following requirements:

(a) Access to personally identifiable student data in the statewide longitudinal data system shall be restricted to:

a. The authorized staff of the department of elementary and secondary education and the contractors working on behalf of the department who require such access to perform their assigned duties as required by law;

b. District administrators, teachers, and school personnel who require such access to perform their assigned duties;

c. Students and their parents for their own data; and

d. The authorized staff of other state agencies in this state as required by law and governed by interagency data sharing agreements;

(b) The department of elementary and secondary education shall develop criteria for the approval of research and data requests from state and local agencies, researchers working on behalf of the department, and the public;

(3) Shall not, unless otherwise provided by law and authorized by policies adopted pursuant to this section, transfer personally identifiable student data;

(4) Develop a detailed data security plan that includes:

(a) Guidelines for authorizing access to the student data system and to individual student data including guidelines for authentication of authorized access;

(b) Privacy compliance standards;

(c) Privacy and security audits;

(d) Breach planning, notification and procedures;

(e) Data retention and disposition policies; and

(f) Data security policies including electronic, physical, and administrative safeguards, such as data encryption and training of employees;

(5) Ensure routine and ongoing compliance by the department of elementary and secondary education with FERPA, other relevant privacy laws and policies, and the privacy and security policies and procedures developed under the authority of this section, including the performance of compliance audits;

(6) Ensure that any contracts that govern databases, assessments, or instructional supports that include student or redacted data and are outsourced to private vendors include express provisions that safeguard privacy and security, including provisions that prohibit private vendors from selling student data or from using student data in furtherance of advertising, with penalties for noncompliance, except to a local service provider for the limited purpose authorized by the school or district whose access to student data, if any, is limited to "directory information" as that term is defined in the federal regulations implementing the federal Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; and

(7) Notify the governor, the president pro tempore of the senate, the speaker of the house of representatives, and the joint committee on education annually of the following:

(a) New student data proposed for inclusion in the state student data system; and

(b) Changes to existing data collections required for any reason, including changes to federal reporting requirements made by the U.S. Department of Education.

2. Quantifiable student performance data shall only include performance on locally developed or locally approved assessments, including but not limited to formative assessments developed by classroom teachers.

3. The department of elementary and secondary education shall not collect nor shall school districts report the following individual student data:

(1) Juvenile court delinquency records;

(2) Criminal records;

(3) Student biometric information;

(4) Student political affiliation; or

(5) Student religion.

4. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section shall be invalid and void.

5. Each violation of any provision of any rule promulgated pursuant to this section by an organization or entity other than a state agency, a school board, or an institution shall be punishable by a civil penalty of up to one thousand dollars. A second violation by the same organization or entity involving the education records and privacy of the same student shall be punishable by a civil penalty of up to five thousand dollars. Any subsequent violation by the same organization or entity involving the education records and privacy of the same student shall be punishable by a civil penalty of up to ten thousand dollars. Each violation involving a different individual education record or a different individual student shall be considered a separate violation for purposes of civil penalties.

6. The attorney general shall have the authority to enforce compliance with this section by investigation and subsequent commencement of a civil action, to seek civil penalties for violations of this section, and to seek appropriate injunctive relief, including but not limited to a prohibition on obtaining personally identifiable information for an appropriate time period. In carrying out such investigation and in maintaining such civil action, the attorney general or any deputy or assistant attorney general is authorized to subpoena witnesses, compel their attendance, examine them under oath, and require that any books, records, documents, papers, or electronic records relevant to the inquiry be turned over for inspection, examination, or audit. Subpoenas issued under this subsection may be enforced pursuant to the Missouri rules of civil procedure.

161.855. WORK GROUPS TO CONVENE, MEMBERS, RECOMMENDATIONS — STATE BOARD TO ADOPT AND IMPLEMENT STANDARDS, WHEN — PILOT ASSESSMENTS — CERTAIN PERSONS PERFORMING WORK TO BE EMPLOYEES OF THE DISTRICT. — **1. By October 1, 2014, the state board of education shall convene work groups composed of education professionals to develop and recommend academic performance standards. The work groups shall be composed of individuals as provided in section 160.514. The state board of education and the work groups shall follow the procedures and conduct the public hearings required by section 160.514. The state board of education shall convene separate work groups for the following subject areas: English language arts; mathematics; science; and history and governments. For each of these four subject areas, the state board of education shall convene two separate work groups, one work group for grades kindergarten through five and another work group for grades six through twelve.**

2. The work groups shall develop and recommend academic performance standards to the state board of education by October 1, 2015. The work groups shall report on their progress in developing the academic performance standards to the president pro tempore of the senate and the speaker of the house of representatives on a monthly basis.

3. The state board of education shall adopt and implement academic performance standards beginning in the 2016-2017 school year. The state board of education shall align the statewide assessment system to the academic performance standards as needed.

4. The department of elementary and secondary education shall pilot assessments from the Smarter Balanced Assessment Consortium during the 2014-2015 school year. Notwithstanding any rules adopted by the state board of education or the department of elementary and secondary education in place at the effective date of this section, for the 2014-2015 school year, and at any time the state board of education or the department of elementary and secondary education implements a new statewide assessment system, develops new academic performance standards, or makes changes to the Missouri School Improvement Program, the first year of such statewide assessment system and performance indicators shall be utilized as a pilot year for the purposes of calculating a district's annual performance report under the Missouri school improvement program. The results of a statewide pilot shall not be used to lower a public school district's accreditation or for a teacher's evaluation.

5. Any person performing work for a school district or charter school for which teacher certification or administrator certification is regularly required under the laws relating to the certification of teachers or administrators shall be an employee of the school district or charter school. All evaluations of any such person shall be maintained in the teacher's or administrator's personnel file and shall not be shared with any state or federal agency.

Approved July 14, 2014

HB 1504 [CCS SS SCS HB 1504]

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

Changes the laws regarding tax increment financing

AN ACT to repeal section 99.845, RSMo, and to enact in lieu thereof one new section relating to tax increment financing.

SECTION

A. Enacting clause.

99.845. Tax increment financing adoption — division of ad valorem taxes — payments in lieu of tax, deposit, inclusion and exclusion of current equalized assessed valuation for certain purposes, when — other taxes included, amount — supplemental tax increment financing fund established, disbursement.

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

SECTION A. ENACTING CLAUSE. — Section 99.845, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 99.845, to read as follows:

99.845. TAX INCREMENT FINANCING ADOPTION — DIVISION OF AD VALOREM TAXES — PAYMENTS IN LIEU OF TAX, DEPOSIT, INCLUSION AND EXCLUSION OF CURRENT EQUALIZED ASSESSED VALUATION FOR CERTAIN PURPOSES, WHEN — OTHER TAXES INCLUDED, AMOUNT — SUPPLEMENTAL TAX INCREMENT FINANCING FUND ESTABLISHED, DISBURSEMENT. — 1. A municipality, either at the time a redevelopment project is approved or, in the event a municipality has undertaken acts establishing a redevelopment plan and redevelopment project and has designated a redevelopment area after the passage and approval

of sections 99.800 to 99.865 but prior to August 13, 1982, which acts are in conformance with the procedures of sections 99.800 to 99.865, may adopt tax increment allocation financing by passing an ordinance providing that after the total equalized assessed valuation of the taxable real property in a redevelopment project exceeds the certified total initial equalized assessed valuation of the taxable real property in the redevelopment project, the ad valorem taxes, and payments in lieu of taxes, if any, arising from the levies upon taxable real property in such redevelopment project by taxing districts and tax rates determined in the manner provided in subsection 2 of section 99.855 each year after the effective date of the ordinance until redevelopment costs have been paid shall be divided as follows:

(1) That portion of taxes, penalties and interest levied upon each taxable lot, block, tract, or parcel of real property which is attributable to the initial equalized assessed value of each such taxable lot, block, tract, or parcel of real property in the area selected for the redevelopment project shall be allocated to and, when collected, shall be paid by the county collector to the respective affected taxing districts in the manner required by law in the absence of the adoption of tax increment allocation financing;

(2) (a) Payments in lieu of taxes attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract, or parcel of real property in the area selected for the redevelopment project and any applicable penalty and interest over and above the initial equalized assessed value of each such unit of property in the area selected for the redevelopment project shall be allocated to and, when collected, shall be paid to the municipal treasurer who shall deposit such payment in lieu of taxes into a special fund called the "Special Allocation Fund" of the municipality for the purpose of paying redevelopment costs and obligations incurred in the payment thereof. **Beginning August 28, 2014, if the voters in a taxing district vote to approve an increase in such taxing district's levy rate for ad valorem tax on real property, any additional revenues generated within an existing redevelopment project area that are directly attributable to the newly voter-approved incremental increase in such taxing district's levy rate shall not be considered payments in lieu of taxes subject to deposit into a special allocation fund without the consent of such taxing district. Revenues will be considered directly attributable to the newly voter-approved incremental increase to the extent that they are generated from the difference between the taxing district's actual levy rate currently imposed and the maximum voter approved levy rate at the time that the redevelopment project was adopted.** Payments in lieu of taxes which are due and owing shall constitute a lien against the real estate of the redevelopment project from which they are derived and shall be collected in the same manner as the real property tax, including the assessment of penalties and interest where applicable. The municipality may, in the ordinance, pledge the funds in the special allocation fund for the payment of such costs and obligations and provide for the collection of payments in lieu of taxes, the lien of which may be foreclosed in the same manner as a special assessment lien as provided in section 88.861. No part of the current equalized assessed valuation of each lot, block, tract, or parcel of property in the area selected for the redevelopment project attributable to any increase above the total initial equalized assessed value of such properties shall be used in calculating the general state school aid formula provided for in section 163.031 until such time as all redevelopment costs have been paid as provided for in this section and section 99.850;

(b) Notwithstanding any provisions of this section to the contrary, for purposes of determining the limitation on indebtedness of local government pursuant to Article VI, Section 26(b) of the Missouri Constitution, the current equalized assessed value of the property in an area selected for redevelopment attributable to the increase above the total initial equalized assessed valuation shall be included in the value of taxable tangible property as shown on the last completed assessment for state or county purposes;

(c) The county assessor shall include the current assessed value of all property within the taxing district in the aggregate valuation of assessed property entered upon the assessor's book and verified pursuant to section 137.245, and such value shall be utilized for the purpose of the

debt limitation on local government pursuant to Article VI, Section 26(b) of the Missouri Constitution;

(3) For purposes of this section, "levies upon taxable real property in such redevelopment project by taxing districts" shall not include the blind pension fund tax levied under the authority of Article III, Section 38(b) of the Missouri Constitution, or the merchants' and manufacturers' inventory replacement tax levied under the authority of subsection 2 of Section 6 of Article X of the Missouri Constitution, except in redevelopment project areas in which tax increment financing has been adopted by ordinance pursuant to a plan approved by vote of the governing body of the municipality taken after August 13, 1982, and before January 1, 1998.

2. In addition to the payments in lieu of taxes described in subdivision (2) of subsection 1 of this section, for redevelopment plans and projects adopted or redevelopment projects approved by ordinance after July 12, 1990, and prior to August 31, 1991, fifty percent of the total additional revenue from taxes, penalties and interest imposed by the municipality, or other taxing districts, which are generated by economic activities within the area of the redevelopment project over the amount of such taxes generated by economic activities within the area of the redevelopment project in the calendar year prior to the adoption of the redevelopment project by ordinance, while tax increment financing remains in effect, but excluding taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant to section 70.500, licenses, fees or special assessments other than payments in lieu of taxes and any penalty and interest thereon, or, effective January 1, 1998, taxes levied pursuant to section 94.660, for the purpose of public transportation, shall be allocated to, and paid by the local political subdivision collecting officer to the treasurer or other designated financial officer of the municipality, who shall deposit such funds in a separate segregated account within the special allocation fund. Any provision of an agreement, contract or covenant entered into prior to July 12, 1990, between a municipality and any other political subdivision which provides for an appropriation of other municipal revenues to the special allocation fund shall be and remain enforceable.

3. In addition to the payments in lieu of taxes described in subdivision (2) of subsection 1 of this section, for redevelopment plans and projects adopted or redevelopment projects approved by ordinance after August 31, 1991, fifty percent of the total additional revenue from taxes, penalties and interest which are imposed by the municipality or other taxing districts, and which are generated by economic activities within the area of the redevelopment project over the amount of such taxes generated by economic activities within the area of the redevelopment project in the calendar year prior to the adoption of the redevelopment project by ordinance, while tax increment financing remains in effect, but excluding personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant to section 70.500, taxes levied for the purpose of public transportation pursuant to section 94.660, taxes imposed on sales pursuant to subsection 2 of section 67.1712 for the purpose of operating and maintaining a metropolitan park and recreation district, licenses, fees or special assessments other than payments in lieu of taxes and penalties and interest thereon, any sales tax imposed by a county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants, for the purpose of sports stadium improvement or levied by such county under section 238.410 for the purpose of the county transit authority operating transportation facilities, or for redevelopment plans and projects adopted or redevelopment projects approved by ordinance after August 28, 2013, taxes imposed on sales under and pursuant to section **67.700 or** 650.399 for the purpose of emergency communication systems, shall be allocated to, and paid by the local political subdivision collecting officer to the treasurer or other designated financial officer of the municipality, who shall deposit such funds in a separate segregated account within the special allocation fund. **Beginning August 28, 2014, if the voters in a taxing district vote to approve an increase in such taxing district's sales tax or use tax, other than the renewal of an expiring sales or use tax, any additional revenues generated within an existing redevelopment project area that**

are directly attributable to the newly voter-approved incremental increase in such taxing district's levy rate shall not be considered economic activity taxes subject to deposit into a special allocation fund without the consent of such taxing district.

4. Beginning January 1, 1998, for redevelopment plans and projects adopted or redevelopment projects approved by ordinance and which have complied with subsections 4 to 12 of this section, in addition to the payments in lieu of taxes and economic activity taxes described in subsections 1, 2 and 3 of this section, up to fifty percent of the new state revenues, as defined in subsection 8 of this section, estimated for the businesses within the project area and identified by the municipality in the application required by subsection 10 of this section, over and above the amount of such taxes reported by businesses within the project area as identified by the municipality in their application prior to the approval of the redevelopment project by ordinance, while tax increment financing remains in effect, may be available for appropriation by the general assembly as provided in subsection 10 of this section to the department of economic development supplemental tax increment financing fund, from the general revenue fund, for distribution to the treasurer or other designated financial officer of the municipality with approved plans or projects.

5. The treasurer or other designated financial officer of the municipality with approved plans or projects shall deposit such funds in a separate segregated account within the special allocation fund established pursuant to section 99.805.

6. No transfer from the general revenue fund to the Missouri supplemental tax increment financing fund shall be made unless an appropriation is made from the general revenue fund for that purpose. No municipality shall commit any state revenues prior to an appropriation being made for that project. For all redevelopment plans or projects adopted or approved after December 23, 1997, appropriations from the new state revenues shall not be distributed from the Missouri supplemental tax increment financing fund into the special allocation fund unless the municipality's redevelopment plan ensures that one hundred percent of payments in lieu of taxes and fifty percent of economic activity taxes generated by the project shall be used for eligible redevelopment project costs while tax increment financing remains in effect. This account shall be separate from the account into which payments in lieu of taxes are deposited, and separate from the account into which economic activity taxes are deposited.

7. In order for the redevelopment plan or project to be eligible to receive the revenue described in subsection 4 of this section, the municipality shall comply with the requirements of subsection 10 of this section prior to the time the project or plan is adopted or approved by ordinance. The director of the department of economic development and the commissioner of the office of administration may waive the requirement that the municipality's application be submitted prior to the redevelopment plan's or project's adoption or the redevelopment plan's or project's approval by ordinance.

8. For purposes of this section, "new state revenues" means:

(1) The incremental increase in the general revenue portion of state sales tax revenues received pursuant to section 144.020, excluding sales taxes that are constitutionally dedicated, taxes deposited to the school district trust fund in accordance with section 144.701, sales and use taxes on motor vehicles, trailers, boats and outboard motors and future sales taxes earmarked by law. In no event shall the incremental increase include any amounts attributable to retail sales unless the municipality or authority has proven to the Missouri development finance board and the department of economic development and such entities have made a finding that the sales tax increment attributable to retail sales is from new sources which did not exist in the state during the baseline year. The incremental increase in the general revenue portion of state sales tax revenues for an existing or relocated facility shall be the amount that current state sales tax revenue exceeds the state sales tax revenue in the base year as stated in the redevelopment plan as provided in subsection 10 of this section; or

(2) The state income tax withheld on behalf of new employees by the employer pursuant to section 143.221 at the business located within the project as identified by the municipality.

The state income tax withholding allowed by this section shall be the municipality's estimate of the amount of state income tax withheld by the employer within the redevelopment area for new employees who fill new jobs directly created by the tax increment financing project.

9. Subsection 4 of this section shall apply only to blighted areas located in enterprise zones, pursuant to sections 135.200 to 135.256, blighted areas located in federal empowerment zones, or to blighted areas located in central business districts or urban core areas of cities which districts or urban core areas at the time of approval of the project by ordinance, provided that the enterprise zones, federal empowerment zones or blighted areas contained one or more buildings at least fifty years old; and

(1) Suffered from generally declining population or property taxes over the twenty-year period immediately preceding the area's designation as a project area by ordinance; or

(2) Was a historic hotel located in a county of the first classification without a charter form of government with a population according to the most recent federal decennial census in excess of one hundred fifty thousand and containing a portion of a city with a population according to the most recent federal decennial census in excess of three hundred fifty thousand.

10. The initial appropriation of up to fifty percent of the new state revenues authorized pursuant to subsections 4 and 5 of this section shall not be made to or distributed by the department of economic development to a municipality until all of the following conditions have been satisfied:

(1) The director of the department of economic development or his or her designee and the commissioner of the office of administration or his or her designee have approved a tax increment financing application made by the municipality for the appropriation of the new state revenues. The municipality shall include in the application the following items in addition to the items in section 99.810:

(a) The tax increment financing district or redevelopment area, including the businesses identified within the redevelopment area;

(b) The base year of state sales tax revenues or the base year of state income tax withheld on behalf of existing employees, reported by existing businesses within the project area prior to approval of the redevelopment project;

(c) The estimate of the incremental increase in the general revenue portion of state sales tax revenue or the estimate for the state income tax withheld by the employer on behalf of new employees expected to fill new jobs created within the redevelopment area after redevelopment;

(d) The official statement of any bond issue pursuant to this subsection after December 23, 1997;

(e) An affidavit that is signed by the developer or developers attesting that the provisions of subdivision (1) of subsection 1 of section 99.810 have been met and specifying that the redevelopment area would not be reasonably anticipated to be developed without the appropriation of the new state revenues;

(f) The cost-benefit analysis required by section 99.810 includes a study of the fiscal impact on the state of Missouri; and

(g) The statement of election between the use of the incremental increase of the general revenue portion of the state sales tax revenues or the state income tax withheld by employers on behalf of new employees who fill new jobs created in the redevelopment area;

(h) The name, street and mailing address, and phone number of the mayor or chief executive officer of the municipality;

(i) The street address of the development site;

(j) The three-digit North American Industry Classification System number or numbers characterizing the development project;

(k) The estimated development project costs;

(l) The anticipated sources of funds to pay such development project costs;

(m) Evidence of the commitments to finance such development project costs;

(n) The anticipated type and term of the sources of funds to pay such development project costs;

(o) The anticipated type and terms of the obligations to be issued;

(p) The most recent equalized assessed valuation of the property within the development project area;

(q) An estimate as to the equalized assessed valuation after the development project area is developed in accordance with a development plan;

(r) The general land uses to apply in the development area;

(s) The total number of individuals employed in the development area, broken down by full-time, part-time, and temporary positions;

(t) The total number of full-time equivalent positions in the development area;

(u) The current gross wages, state income tax withholdings, and federal income tax withholdings for individuals employed in the development area;

(v) The total number of individuals employed in this state by the corporate parent of any business benefitting from public expenditures in the development area, and all subsidiaries thereof, as of December thirty-first of the prior fiscal year, broken down by full-time, part-time, and temporary positions;

(w) The number of new jobs to be created by any business benefitting from public expenditures in the development area, broken down by full-time, part-time, and temporary positions;

(x) The average hourly wage to be paid to all current and new employees at the project site, broken down by full-time, part-time, and temporary positions;

(y) For project sites located in a metropolitan statistical area, as defined by the federal Office of Management and Budget, the average hourly wage paid to nonmanagerial employees in this state for the industries involved at the project, as established by the United States Bureau of Labor Statistics;

(z) For project sites located outside of metropolitan statistical areas, the average weekly wage paid to nonmanagerial employees in the county for industries involved at the project, as established by the United States Department of Commerce;

(aa) A list of other community and economic benefits to result from the project;

(bb) A list of all development subsidies that any business benefitting from public expenditures in the development area has previously received for the project, and the name of any other granting body from which such subsidies are sought;

(cc) A list of all other public investments made or to be made by this state or units of local government to support infrastructure or other needs generated by the project for which the funding pursuant to this section is being sought;

(dd) A statement as to whether the development project may reduce employment at any other site, within or without the state, resulting from automation, merger, acquisition, corporate restructuring, relocation, or other business activity;

(ee) A statement as to whether or not the project involves the relocation of work from another address and if so, the number of jobs to be relocated and the address from which they are to be relocated;

(ff) A list of competing businesses in the county containing the development area and in each contiguous county;

(gg) A market study for the development area;

(hh) A certification by the chief officer of the applicant as to the accuracy of the development plan;

(2) The methodologies used in the application for determining the base year and determining the estimate of the incremental increase in the general revenue portion of the state sales tax revenues or the state income tax withheld by employers on behalf of new employees who fill new jobs created in the redevelopment area shall be approved by the director of the department of economic development or his or her designee and the commissioner of the office

of administration or his or her designee. Upon approval of the application, the director of the department of economic development or his or her designee and the commissioner of the office of administration or his or her designee shall issue a certificate of approval. The department of economic development may request the appropriation following application approval;

(3) The appropriation shall be either a portion of the estimate of the incremental increase in the general revenue portion of state sales tax revenues in the redevelopment area or a portion of the estimate of the state income tax withheld by the employer on behalf of new employees who fill new jobs created in the redevelopment area as indicated in the municipality's application, approved by the director of the department of economic development or his or her designee and the commissioner of the office of administration or his or her designee. At no time shall the annual amount of the new state revenues approved for disbursements from the Missouri supplemental tax increment financing fund exceed thirty-two million dollars;

(4) Redevelopment plans and projects receiving new state revenues shall have a duration of up to fifteen years, unless prior approval for a longer term is given by the director of the department of economic development or his or her designee and the commissioner of the office of administration or his or her designee; except that, in no case shall the duration exceed twenty-three years.

11. In addition to the areas authorized in subsection 9 of this section, the funding authorized pursuant to subsection 4 of this section shall also be available in a federally approved levee district, where construction of a levee begins after December 23, 1997, and which is contained within a county of the first classification without a charter form of government with a population between fifty thousand and one hundred thousand inhabitants which contains all or part of a city with a population in excess of four hundred thousand or more inhabitants.

12. There is hereby established within the state treasury a special fund to be known as the "Missouri Supplemental Tax Increment Financing Fund", to be administered by the department of economic development. The department shall annually distribute from the Missouri supplemental tax increment financing fund the amount of the new state revenues as appropriated as provided in the provisions of subsections 4 and 5 of this section if and only if the conditions of subsection 10 of this section are met. The fund shall also consist of any gifts, contributions, grants or bequests received from federal, private or other sources. Moneys in the Missouri supplemental tax increment financing fund shall be disbursed per project pursuant to state appropriations.

13. Redevelopment project costs may include, at the prerogative of the state, the portion of salaries and expenses of the department of economic development and the department of revenue reasonably allocable to each redevelopment project approved for disbursements from the Missouri supplemental tax increment financing fund for the ongoing administrative functions associated with such redevelopment project. Such amounts shall be recovered from new state revenues deposited into the Missouri supplemental tax increment financing fund created under this section.

14. For redevelopment plans or projects approved by ordinance that result in net new jobs from the relocation of a national headquarters from another state to the area of the redevelopment project, the economic activity taxes and new state tax revenues shall not be based on a calculation of the incremental increase in taxes as compared to the base year or prior calendar year for such redevelopment project, rather the incremental increase shall be the amount of total taxes generated from the net new jobs brought in by the national headquarters from another state. In no event shall this subsection be construed to allow a redevelopment project to receive an appropriation in excess of up to fifty percent of the new state revenues.

Approved July 3, 2014

HB 1506 [HB 1506]

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

Establishes a rural regional development grants program

AN ACT to amend chapter 620, RSMo, by adding thereto one new section relating to rural regional development grants.

SECTION

A. Enacting clause.
620.750. Grants authorized, qualified rural regional development groups, duties — grant procedure — use of grant moneys — report — rulemaking authority.

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

SECTION A. ENACTING CLAUSE. — Chapter 620, RSMo, is amended by adding thereto one new section, to be known as section 620.750, to read as follows:

620.750. GRANTS AUTHORIZED, QUALIFIED RURAL REGIONAL DEVELOPMENT GROUPS, DUTIES — GRANT PROCEDURE — USE OF GRANT MONEYS — REPORT — RULEMAKING AUTHORITY. — 1. The department of economic development, subject to an appropriation not to exceed five million dollars each fiscal year, shall develop and implement rural regional development grants as provided in this section.

2. Rural regional development grants may be provided to qualified rural regional development groups. After the award of a grant, the group shall:

(1) Track and monitor job creation and investment in the region using quantitative measures that measure progress toward preestablished goals;

(2) Establish a process for enrolling commercial and industrial development sites in the region in the state-certified sites program or maintain a list of state-certified commercial and industrial development sites in the region;

(3) Measure the skills of the region's workforce;

(4) Provide an organizational chart demonstrating that private businesses and local governmental and educational officials are involved in the group; and

(5) Provide documentation of the group's financial activities for the current year.

3. A rural regional development group shall not qualify for a rural regional development grant if:

(1) The group's region includes a county or portion of another state outside the state of Missouri; or

(2) The group maintains an operating budget greater than two hundred fifty thousand dollars.

4. Applications for rural regional development grants shall only be submitted for a rural regional development group by a regional planning commission created under chapter 251 or other legally created regional planning commission. A regional planning commission may submit applications on behalf of more than one rural regional development group, except that a regional planning commission shall not submit an application on behalf of a group that the regional planning commission does not recognize as the economic development authority for the county that the authority represents.

5. The regional planning commission may charge an application fee for the grants developed under this section. The regional planning commission shall be allowed to claim reimbursement from the grant recipient for actual costs of administering the grants.

6. A single grant shall not exceed one hundred fifty thousand dollars. Each of the nineteen regions of the state represented by a regional planning commission created under chapter 251 or other legally created regional planning commission shall not receive more than two grants per region annually.

7. Grants provided under this section shall be distributed based on a rural regional development group's years in operation. The eligible amount shall be:

(1) For a group in operation two years or more on a matching basis of three dollars of state funds for every one dollar of funds provided or raised by the rural regional development group, including the value of in-kind services, supplies, or equipment.

(2) For groups in operation less than two years on a matching basis of one dollar of state funds for every one dollar of funds provided or raised by the rural regional development group, including the value of in-kind services, supplies, or equipment.

8. Uses for the grants may include, but are not limited to, the following activities:

(1) Workforce development activities, such as evaluation and education;

(2) Entrepreneurship training for pre-venture and existing businesses;

(3) Development of regional marketing techniques and activities;

(4) International trade training for new-to-export businesses in the region;

(5) In-depth market research and financial analysis for businesses in the region;

(6) Demographic and market opportunity research to assist regional planning commissions in developing their comprehensive economic development strategy.

9. The grant recipient shall annually report to the governor; the director of the department of economic development; the senate committee on commerce, consumer protection and the environment; the house committee on economic development and any successor committees thereto, the allocation of the grants and the purposes for which the funding was used.

10. The department of economic development may promulgate rules governing the award of grants under this section. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2014, shall be invalid and void.

Approved July 7, 2014

HB 1523 [HCS HB 1523]

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

Changes the laws regarding the management, investment, and expenditures of endowment funds held by charitable institutions and other entities holding funds for charitable purposes

AN ACT to repeal section 402.134, RSMo, and to enact in lieu thereof one new section relating to endowment funds, with an emergency clause.

SECTION

A. Enacting clause.

402.134. Appropriation for expenditure or accumulation of endowment fund, amount permitted — factors to consider.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Section 402.134, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 402.134, to read as follows:

402.134. APPROPRIATION FOR EXPENDITURE OR ACCUMULATION OF ENDOWMENT FUND, AMOUNT PERMITTED — FACTORS TO CONSIDER. — 1. Subject to the intent of the donor expressed in the gift instrument, an institution may appropriate for expenditure or accumulate so much of an endowment fund as the institution determines is prudent for the uses, benefits, purposes, and duration for which the endowment fund is established. Unless otherwise stated in the gift instrument, the assets in an endowment fund are donor-restricted assets until appropriated for expenditure by the institution. In making a determination to appropriate or accumulate, the institution shall act in good faith with the care that an ordinary prudent person in a like position would exercise under similar circumstances and shall consider, if relevant, the following factors:

(1) The duration and preservation of the endowment fund;
(2) The purposes of the institution and the endowment fund;
(3) General economic conditions;
(4) The possible effect of inflation or deflation;
(5) The expected total return from income and the appreciation of investments;
(6) Other resources of the institution; and
(7) The investment policy of the institution.

2. To limit the authority to appropriate for expenditure or accumulate under subsection 1 of this section, a gift instrument shall specifically state the limitation.

3. Terms in a gift instrument designating a gift as an endowment, or a direction or authorization in the gift instrument to use only "income", "interest", "dividends", or "rents, issues or profits", or **"**to preserve the principal intact**"**, or words of **[**that**]** **similar** import **[**that**]**:

(1) Create an endowment fund of permanent duration unless other language in the gift instrument limits the duration or purpose of the fund; and

(2) Do not otherwise limit the authority to appropriate for expenditure or accumulate under subsection 1 of this section.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to preserve the charitable purpose of certain endowment funds, the repeal and reenactment of section 402.134 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 402.134 of section A of this act shall be in full force and effect upon its passage and approval.

Approved June 10, 2014

HB 1594 [SCS HB 1594]

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

Allows for volunteer labor on public works projects

AN ACT to repeal section 290.230, RSMo, and to enact in lieu thereof one new section relating to volunteer labor on public works projects.

SECTION
A. Enacting clause.
290.230. Prevailing wage rates required on construction of public works.

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

SECTION A. ENACTING CLAUSE. — Section 290.230, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 290.230, to read as follows:

290.230. PREVAILING WAGE RATES REQUIRED ON CONSTRUCTION OF PUBLIC WORKS. — 1. Not less than the prevailing hourly rate of wages for work of a similar character in the locality in which the work is performed, and not less than the prevailing hourly rate of wages for legal holiday and overtime work, shall be paid to all workmen employed by or on behalf of any public body engaged in the construction of public works, exclusive of maintenance work. Only such workmen as are directly employed by contractors or subcontractors in actual construction work on the site of the building or construction job shall be deemed to be employed upon public works. **Any such workman who agrees in writing to volunteer his or her labor without pay shall not be deemed to be employed upon public works, and shall not be entitled to the prevailing hourly rate of wages. For the purposes of this section, the term "workman who agrees in writing to volunteer his or her labor without pay" shall mean a workman who volunteers his or her labor without any promise of benefit or remuneration for such voluntary activity, and who is not a prisoner in any jail or prison facility and who is not performing community service pursuant to disposition of a criminal case against him, and is not otherwise employed for compensation at any time in the construction or maintenance work on the same public works for which the workman is a volunteer. Under no circumstances may an employer force, compel or otherwise intimidate an employee into performing work otherwise paid by a prevailing wage as a volunteer.**

2. When the hauling of materials or equipment includes some phase of construction other than the mere transportation to the site of the construction, workmen engaged in this dual capacity shall be deemed employed directly on public works.

Approved July 2, 2014

HB 1602 [HB 1602]

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

Authorizes the conveyance of property owned by the State of Missouri to the City of Farmington for a bird sanctuary

AN ACT to authorize the conveyance of property owned by the state in St. Francois County to the City of Farmington.

SECTION
1. Governor authorized to convey property in St. Francois County to City of Farmington.

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

SECTION 1. GOVERNOR AUTHORIZED TO CONVEY PROPERTY IN ST. FRANCOIS COUNTY TO CITY OF FARMINGTON — 1. The governor is hereby authorized and empowered to sell,

transfer, grant, and convey all interest in fee simple absolute in property owned by the state in St. Francois County to the City of Farmington. The property to be conveyed is more particularly described as follows:

A tract of land located in the County of St. Francois and the State of Missouri, lying in part of Lot 89 of F W Rohland Subdivision of United States Survey 2969, A Subdivision filed for record in Book F at Page 441 of the Land Records of St. Francois County, Missouri, described as follows, to-wit: Commencing at a found 4" X 12" limestone with a cut X marking the Southwest corner of said Lot 89, the POINT OF BEGINNING of the tract herein described; thence along the West boundary of said Lot 89 North 07°02'33" East 477.44' to a found No. 4 rebar cap PLS 1955 on the North right-of-way of Vargo Road; thence along the North right-of-way of Vargo Road as follows South 45°30'07" East 112.78' to a found No. 5 rebar; thence South 49°22'11" East 138.02' to a found No. 5 rebar; thence South 45°18'14" East 117.09' to a found No. 5 rebar; thence South 33°19'54" East 117.56' to a found No. 5 rebar; thence South 28°53'49" East 66.39' to a found No. 5 rebar; thence South 37°47'46" East 103.11' to a found No. 4 rebar cap PLS 1955; thence South 32°37'49" East 48.52' to a found No. 4 rebar cap PLS 1955; thence leaving said North right-of-way of Vargo Road South 07°43'18" West 13.68' to a found No. 4 rebar cap PLS 1955 on the South boundary of said Lot 89; thence along said South boundary of Lot 89 North 82°14'11" West 515.89' to the point of beginning. Containing 3.22 acres, more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

Approved June 10, 2014

HB 1603 [HB 1603]

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

Designates the exercise commonly known as "jumping jacks" as the official state exercise

AN ACT to amend chapter 10, RSMo, by adding thereto one new section relating to the designation of the official state exercise.

SECTION
A. Enacting clause.
10.115. Official state exercise — jumping jacks.

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

SECTION A. ENACTING CLAUSE. — Chapter 10, RSMo, is amended by adding thereto one new section, to be known as section 10.115, to read as follows:

10.115. OFFICIAL STATE EXERCISE — JUMPING JACKS. — The exercise commonly known and referred to as "jumping jacks", which was invented by Missouri-born General John J. Pershing as a drill exercise for cadets when he was a tactical officer at

West Point in the late 1800s, is selected for and shall be known as the official exercise of the state of Missouri.

Approved July 10, 2014

HB 1614 [SCS HCS HB 1614]

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

Adds dyslexia to the special needs definition for purposes of Bryce's Law

AN ACT to repeal section 161.825, RSMo, and to enact in lieu thereof one new section relating to educational services for students with qualifying needs.

SECTION
A. Enacting clause.
161.825. Citation of law — definitions — master list of autism spectrum disorder resources required — scholarship granting organizations, requirements, duties — department duties — sunset provision.

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

SECTION A. ENACTING CLAUSE. — Section 161.825, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 161.825, to read as follows:

161.825. CITATION OF LAW — DEFINITIONS — MASTER LIST OF AUTISM SPECTRUM DISORDER RESOURCES REQUIRED — SCHOLARSHIP GRANTING ORGANIZATIONS, REQUIREMENTS, DUTIES — DEPARTMENT DUTIES — SUNSET PROVISION. — 1. This section shall be known and may be cited as "Bryce's Law".

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

(1) "Autism spectrum disorder", pervasive developmental disorder; Asperger syndrome; childhood disintegrative disorder; Rett syndrome; and autism;

(2) "Contribution", a donation of cash, stock, bonds, or other marketable securities, or real property;

(3) "Department", the department of elementary and secondary education;

(4) "Director", the commissioner of education;

(5) "Dyslexia therapy", an appropriate specialized dyslexia instructional program that is systematic, multisensory, and research-based offered in a small group setting to teach students the components of reading instruction including but not limited to phonemic awareness, graphophonemic knowledge, morphology, semantics, syntax, and pragmatics, instruction on linguistic proficiency and fluency with patterns of language so that words and sentences are carriers of meaning, and strategies that students use for decoding, encoding, word recognition, fluency and comprehension delivered by qualified personnel;

[(5)**] (6)** "Educational scholarships", grants to students **or children** to cover all or part of the tuition and fees at a qualified nonpublic school, a qualified public school, or a qualified service provider, including transportation;

[(6)**] (7)** "Eligible child", any child from birth to age five living in Missouri who has an individualized family services program under the first steps program, sections 160.900 to 160.933, and whose parent or guardian has completed the complaint procedure under the Individuals with Disabilities Education Act, Part C, and has received an unsatisfactory response; or any child from birth to age five who has been evaluated for **[**special**] qualifying** needs as

defined in this section by a person qualified to perform evaluations under the first steps program and has been determined to have **[**special needs**]** **a qualifying need** but who falls below the threshold for eligibility by no less than twenty-five percent;

[(7)**]** **(8)** "Eligible student", any elementary or secondary student who attended public school in Missouri the preceding semester, or who will be attending school in Missouri for the first time, who has an individualized education program based on a **[**special**]** **qualifying** needs condition or who has a medical **or clinical** diagnosis by a qualified health professional of a **[**special**]** **qualifying** needs condition **which in the case of dyslexia, may be based on the C-TOPP assessment as an initial indicator of dyslexia and confirmed by further medical or clinical diagnosis**;

[(8)**]** **(9)** "Parent", includes a guardian, custodian, or other person with authority to act on behalf of the **student or** child;

[(9)**]** **(10)** "Program", the program established in this section;

[(10)**]** **(11)** "Qualified health professional", a person licensed under chapter 334 or 337 who possesses credentials as described in rules promulgated jointly by the department of elementary and secondary education and the department of mental health to make a diagnosis of a student's **[**special**]** **qualifying** needs for this program;

[(11)**]** **(12)** "Qualified school", either an accredited public elementary or secondary school in a district that is accredited without provision outside of the district in which a student resides or an accredited nonpublic elementary or secondary school in Missouri that complies with all of the requirements of the program and complies with all state laws that apply to nonpublic schools regarding criminal background checks for employees and excludes from employment any person not permitted by state law to work in a nonpublic school;

[(12)**]** **(13)** "Qualified service provider", a person or agency authorized by the department to provide services under the first steps program, sections 160.900 to 160.933**, and in the case of a provider offering dyslexia therapy, the term also includes a person with national certification as an academic language therapist**;

(14) "Qualifying needs", an autism spectrum disorder, Down Syndrome, Angelman Syndrome, cerebral palsy, or dyslexia;

(15) "Scholarship granting organization", a charitable organization that:

(a) Is exempt from federal income tax;

(b) Complies with the requirements of this program;

(c) Provides education scholarships to students attending qualified schools of their parents' choice or to children receiving services from qualified service providers; and

(d) Does not accept contributions on behalf of any eligible student or eligible child from any donor with any obligation to provide any support for the eligible student or eligible child**[**;

(14) "Special needs", an autism spectrum disorder, Down Syndrome, Angelman Syndrome, or cerebral palsy**]**.

3. The department of elementary and secondary education shall develop a master list of resources available to the parents of children with an autism spectrum disorder **or dyslexia** and shall maintain a web page for the information. The department shall also actively seek financial resources in the form of grants and donations that may be devoted to scholarship funds or to clinical trials for behavioral interventions that may be undertaken by qualified service providers. The department may contract out or delegate these duties to a nonprofit organization. Priority in referral for funding shall be given to children who have not yet entered elementary school.

4. The director shall determine, at least annually, which organizations in this state may be classified as scholarship granting organizations. The director may require of an organization seeking to be classified as a scholarship granting organization whatever information **[**which**]** **that** is reasonably necessary to make such a determination. The director shall classify an organization as a scholarship granting organization if such organization meets the definition set forth in this section.

5. The director shall establish a procedure by which a donor can determine if an organization has been classified as a scholarship granting organization. Scholarship granting organizations shall be permitted to decline a contribution from a donor.

6. Each scholarship granting organization shall provide information to the director concerning the identity of each donor making a contribution to the scholarship granting organization.

7. (1) The director shall annually make a determination on the number of students in Missouri with an individualized education program based upon **[**special**]** **qualifying** needs as defined in this section. The director shall use ten percent of this number to determine the maximum number of students to receive scholarships from a scholarship granting organization in that year for students with **[**special**]** **qualifying** needs who have at the time of application an individualized education program, plus a number calculated by the director by applying the state's latest available autism, cerebral palsy, Down Syndrome, **[**and**]** Angelman Syndrome**, and dyslexia** incidence rates to the state's population of children from age five to nineteen who are not enrolled in public schools and taking ten percent of that number. The total of these two calculations shall constitute the maximum number of scholarships available to students.

(2) The director shall also annually make a determination on the number of children in Missouri whose parent or guardian has enrolled the child in first steps, received an individualized family services program based on **[**special**]** **qualifying** needs, and filed a complaint through the Individuals with Disabilities Education Act, Part C, and received **[**a negative**]** **an unsatisfactory** response. In addition to this number, the director shall apply the latest available autism, cerebral palsy, Down Syndrome, **[**and**]** Angelman Syndrome**, and dyslexia** incidence rates to the latest available census information for children from birth to age five and determine ten percent of that number for the maximum number of scholarships for children.

(3) The director shall publicly announce the number of each category of scholarship opportunities available each year. Once a scholarship granting organization has decided to provide a student or child with a scholarship, it shall promptly notify the director. The director shall keep a running tally of the number of scholarships granted in the order in which they were reported. Once the tally reaches the annual limit of scholarships for eligible students or children, the director shall notify all of the participating scholarship granting organizations that they shall not issue any more scholarships and any more receipts for contributions. If the scholarship granting organizations have not expended all of their available scholarship funds in that year at the time when the limit is reached, the available scholarship funds may be carried over into the next year. These unexpended funds shall not be counted as part of the requirement in subdivision (3) of subsection **[**10**]** **8** of this section for that year. Any receipt for a scholarship contribution issued by a scholarship granting organization before the director has publicly announced the student or child limit has been reached shall be valid. **Beginning with school year 2016-17, the director may adjust the allocation of the proportion of scholarships using information on unmet need and use patterns from the previous school years. The director shall provide notice of the change to the state board of education for its approval.**

8. Each scholarship granting organization participating in the program shall:

(1) Notify the department of its intent to provide educational scholarships to students attending qualified schools or children receiving services from qualified service providers;

(2) Provide a department-approved receipt to donors for contributions made to the organization;

(3) Ensure that at least ninety percent of its revenue from donations is spent on educational scholarships, and that all revenue from interest or investments is spent on educational scholarships;

(4) Ensure that the scholarships provided do not exceed an average of twenty thousand dollars per eligible child or fifty thousand dollars per eligible student;

(5) Inform the parent or guardian of the student or child applying for a scholarship that accepting the scholarship is tantamount to a parentally placed private school student pursuant to

34 CFR 300.130 and, thus, neither the department nor any Missouri public school is responsible to provide the student with a free appropriate public education pursuant to the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973;

(6) Distribute periodic scholarship payments as checks made out to a student's or child's parent and mailed to the qualified school where the student is enrolled or qualified service provider used by the child. The parent or guardian shall endorse the check before it can be deposited;

(7) Cooperate with the department to conduct criminal background checks on all of its employees and board members and exclude from employment or governance any individual who might reasonably pose a risk to the appropriate use of contributed funds;

(8) Ensure that scholarships are portable during the school year and can be used at any qualified school that accepts the eligible student or at a different qualified service provider for an eligible child according to a parent's wishes. If a student moves to a new qualified school during a school year or to a different qualified service provider for an eligible child, the scholarship amount may be prorated;

(9) Demonstrate its financial accountability by:

(a) Submitting a financial information report for the organization that complies with uniform financial accounting standards established by the department and conducted by a certified public accountant; and

(b) Having the auditor certify that the report is free of material misstatements;

(10) Demonstrate its financial viability, if the organization is to receive donations of fifty thousand dollars or more during the school year, by filing with the department before the start of the school year:

(a) A surety bond payable to the state in an amount equal to the aggregate amount of contributions expected to be received during the school year; or

(b) Financial information that demonstrates the financial viability of the scholarship granting organization.

9. Each scholarship granting organization shall ensure that each participating school or service provider that accepts its scholarship students or children shall:

(1) Comply with all health and safety laws or codes that apply to nonpublic schools or service providers;

(2) Hold a valid occupancy permit if required by its municipality;

(3) Certify that it will comply with 42 U.S.C. Section 1981, as amended;

(4) Provide academic accountability to parents of the students or children in the program by regularly reporting to the parent on the student's or child's progress;

(5) Certify that in providing any educational services or behavior strategies to a scholarship recipient with a **medical or clinical** diagnosis of or an individualized education program based upon autism spectrum disorder it will:

(a) Adhere to the best practices recommendations of the Missouri Autism Guidelines Initiative or document why it is varying from the guidelines;

(b) Not use any evidence-based interventions that have been found ineffective by the **[**commission on Medicare**]** **centers for Medicare and Medicaid services** as described in the Missouri Autism Guidelines Initiative guide to evidence-based interventions; and

(c) Provide documentation in the student's or child's record of the rationale for the use of any intervention that is categorized as unestablished, insufficient evidence, or level 3 by the Missouri Autism Guidelines Initiative guide to evidence-based interventions; and

(6) Certify that in providing any educational services or behavior strategies to a scholarship recipient with a **medical or clinical** diagnosis of, or an individualized family services program based upon Down Syndrome, Angelman Syndrome, **[**or**]** cerebral palsy**, or dyslexia**, it will use student, teacher, teaching, and school influences that rank in the zone of desired effects in the meta-analysis of John Hattie, or equivalent analyses as determined by the department, or document why it is using a method that has not been determined by analysis to rank in the zone of desired effects.

10. Scholarship granting organizations shall not provide educational scholarships for students to attend any school or children to receive services from any qualified service provider with paid staff or board members who are relatives within the first degree of consanguinity or affinity.

11. A scholarship granting organization shall publicly report to the department, by June first of each year, the following information prepared by a certified public accountant regarding its grants in the previous calendar year:

(1) The name and address of the scholarship granting organization;

(2) The total number and total dollar amount of contributions received during the previous calendar year; and

(3) The total number and total dollar amount of educational scholarships awarded during the previous calendar year, including the category of each scholarship, and the total number and total dollar amount of educational scholarships awarded during the previous year to students eligible for free and reduced lunch.

12. The department shall adopt rules and regulations consistent with this section as necessary to implement the program.

13. The department shall provide a standardized format for a receipt to be issued by a scholarship granting organization to a donor to indicate the value of a contribution received.

14. The department shall provide a standardized format for scholarship granting organizations to report the information in this section.

15. The department may conduct either a financial review or audit of a scholarship granting organization.

16. If the department believes that a scholarship granting organization has intentionally and substantially failed to comply with the requirements of this section, the department may hold a hearing before the director or the director's designee to bar a scholarship granting organization from participating in the program. The director or the director's designee shall issue a decision within thirty days. A scholarship granting organization may appeal the director's decision to the administrative hearing commission for a hearing in accordance with the provisions of chapter 621.

17. If the scholarship granting organization is barred from participating in the program, the department shall notify affected scholarship students or children and their parents of this decision within fifteen days.

18. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2013, shall be invalid and void.

19. The department shall conduct a study of the program with funds other than state funds. The department may contract with one or more qualified researchers who have previous experience evaluating similar programs. The department may accept grants to assist in funding this study.

20. The study shall assess:

(1) The level of participating students' and children's satisfaction with the program in a manner suitable to the student or child;

(2) The level of parental satisfaction with the program;

(3) The percentage of participating students who were bullied or harassed because of their special needs status at their resident school district compared to the percentage so bullied or harassed at their qualified school;

(4) The percentage of participating students who exhibited behavioral problems at their resident school district compared to the percentage exhibiting behavioral problems at their qualified school;

(5) The class size experienced by participating students at their resident school district and at their qualified school; and

(6) The fiscal impact to the state and resident school districts of the program.

21. The study shall be completed using appropriate analytical and behavioral sciences methodologies to ensure public confidence in the study.

22. The department shall provide the general assembly with a final copy of the evaluation of the program by December 31, 2016.

23. The public and nonpublic participating schools and service providers from which students transfer to participate in the program shall cooperate with the research effort by providing student or child assessment instrument scores and any other data necessary to complete this study.

24. The general assembly may require periodic updates on the status of the study from the department. The individuals completing the study shall make their data and methodology available for public review while complying with the requirements of the Family Educational Rights and Privacy Act, as amended.

25. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall sunset automatically on December 31, 2019, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall sunset automatically on December 31, 2031; and

(3) This section shall terminate on December thirty-first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

Approved July 9, 2014

HB 1631 [SCS HCS HB 1631]

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

Specifies that the Air Conservation Commission shall develop emissions standards and compliance schedules under federal law through a unit-by-unit analysis of each existing source of a designate

AN ACT to amend chapter 643, RSMo, by adding thereto one new section relating to the air conservation commission.

SECTION

A. Enacting clause.

643.640. Emission standards to be developed for certain carbon dioxide sources — unit-by-unit analysis required, procedure — severability clause.

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

SECTION A. ENACTING CLAUSE. — Chapter 643, RSMo, is amended by adding thereto one new section, to be known as section 643.640, to read as follows:

643.640. EMISSION STANDARDS TO BE DEVELOPED FOR CERTAIN CARBON DIOXIDE SOURCES — UNIT-BY-UNIT ANALYSIS REQUIRED, PROCEDURE — SEVERABILITY CLAUSE. — 1. The commission shall develop emission standards under 42 U.S.C. Section 7411(d) and 40 CFR 60.24 through a unit-by-unit analysis of each existing affected source of carbon dioxide within the state. As used in this section, "unit-by-unit analysis" means an analysis

of each generation plant individually, regardless of the number of turbines at each plant site.

2. The commission shall consider in developing and implementing emission standards for each existing affected source of carbon dioxide, among other factors, the remaining useful life of the existing affected source to which such standard applies, consistent with 42 U.S.C. Section 7411(d).

3. The commission shall consider, consistent with its statutory duties to achieve the prevention, abatement, and control of air pollution by all commercially available and economically feasible methods, the overall economic impact from any and all emission standards and compliance schedules developed and implemented under 42 U.S.C. Section 7411(d).

4. The commission may develop, on a unit-by-unit basis for individual existing affected sources and emissions of carbon dioxide at these existing affected sources, consistent with 40 CFR 60.24(f), emission standards that are less stringent, but not more stringent, than applicable federal emission guidelines or longer compliance schedules than those required by federal regulations. This determination shall be based on:

(1) Unreasonable cost of control resulting from plant age, location, or basic process design;

(2) Physical impossibility of installing necessary control equipment; or

(3) Other factors specific to the existing affected source or class of existing affected sources that make application of a less stringent standard or final compliance time significantly more reasonable, including, but not limited to, the absolute cost of applying the emission standard and compliance schedule to the existing affected source; the outstanding debt associated with the existing affected source; the economic impacts of closing the existing affected source, including expected job losses if the existing affected source is unable to comply with the performance standard; and the customer impacts of applying the emission standard and compliance schedule to the existing affected source, including any disproportionate electric rate impacts on low income populations.

5. As required by 40 CFR 60.26, the commission has legal authority to carry out any state implementation plan with emission standards and compliance schedules that are developed and implemented consistent with this chapter.

6. If any provision of this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this section that can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

Approved July 7, 2014

HB 1651 [HB 1651]

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

Allows members of electric cooperatives to participate in certain meetings by mail or electronic means

AN ACT to repeal section 394.120, RSMo, and to enact in lieu thereof one new section relating to electric cooperatives.

SECTION

A. Enacting clause.

394.120. Qualifications for membership — meetings — rules.

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

SECTION A. ENACTING CLAUSE. — Section 394.120, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 394.120, to read as follows:

394.120. QUALIFICATIONS FOR MEMBERSHIP — MEETINGS — RULES. — 1. No person shall become a member of a cooperative unless such person shall agree to use electric energy furnished by the cooperative when such electric energy shall be available through its facilities. The bylaws of a cooperative may provide that any person, including an incorporator, shall cease to be a member thereof if he or she shall fail or refuse to use electric energy made available by the cooperative or if electric energy shall not be made available to such person by the cooperative within a specified time after such person shall have become a member thereof. Membership in the cooperative shall not be transferable, except as provided in the bylaws. The bylaws may prescribe additional qualifications and limitations in respect of membership.

2. An annual meeting of the members shall be held at such time as shall be provided in the bylaws.

3. Special meetings of the members may be called by the board of directors, by any three directors, by not less than ten percent of the members, or by the president.

4. Meetings of members shall be held at such place as may be provided in the bylaws. In the absence of any such provisions, all meetings shall be held in the city or town in which the principal office of the cooperative is located.

5. Except as herein otherwise provided, written or printed notice stating the time and place of each meeting of members and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be given to each member, either personally or by mail, not less than ten nor more than twenty-five days before the date of the meeting.

6. Two percent of the first two thousand members and one percent of the remaining members, present in person **or if the bylaws so provide, participating electronically or by mail** shall constitute a quorum for the transaction of business at all meetings of the members, unless the bylaws prescribe the presence of a greater percentage of the members for a quorum. If less than a quorum is present at any meeting, a majority of those present in person may adjourn the meeting from time to time without further notice.

7. Each member shall be entitled to one vote on each matter submitted to a vote at a meeting. Voting shall be in person, but, if the bylaws so provide, may also be by proxy**, by electronic means, [**or**]** by mail, or **[**both**]** **any combination thereof**. If the bylaws provide for voting by proxy**, by electronic means,** or by mail, they shall also prescribe the conditions under which proxy**, electronic,** or mail voting shall be exercised. In any event, no person shall vote as proxy for more than two members at any meeting of the members.

Approved June 5, 2014

HB 1656 [HB 1656]

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

Specifies that if an anatomical gift is medically unsuitable for transplantation or therapy, the gift may be used for research, education, or pass to an appropriate procurement organization

AN ACT to repeal section 194.255, RSMo, and to enact in lieu thereof one new section relating to anatomical gifts.

SECTION
A. Enacting clause.
194.255. Persons eligible to receive gift in the document of gift — gifts not naming persons, effect of — refusal of gift required when.

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

SECTION A. ENACTING CLAUSE. — Section 194.255, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 194.255, to read as follows:

194.255. PERSONS ELIGIBLE TO RECEIVE GIFT IN THE DOCUMENT OF GIFT — GIFTS NOT NAMING PERSONS, EFFECT OF — REFUSAL OF GIFT REQUIRED WHEN. — 1. An anatomical gift may be made to the following persons named in the document of gift:

(1) A hospital, accredited medical school, dental school, college, university, or organ procurement organization, cadaver procurement organization, or other appropriate person for research or education;

(2) Subject to subsection 2 of this section, an individual designated by the person making the anatomical gift if the individual is the recipient of the part; or

(3) An eye bank or tissue bank.

2. If an anatomical gift to an individual under subdivision (2) of subsection 1 of this section cannot be transplanted into the individual, the part passes in accordance with subsection 7 of this section in the absence of an express, contrary indication by the person making the anatomical gift.

3. If an anatomical gift of one or more specific parts or of all parts is made in a document of gift that does not name a person described in subsection 1 of this section but identifies the purpose for which an anatomical gift may be used, the following rules apply:

(1) If the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank;

(2) If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank;

(3) If the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ;

(4) If the part is an organ, an eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.

4. For the purpose of subsection 3 of this section, if there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift must be used for transplantation or therapy if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

5. If an anatomical gift of one or more specific parts is made in a document of gift that does not name a person described in subsection 1 of this section and does not identify the purpose of the gift, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection 7 of this section.

6. If a document of gift specifies only a general intent to make an anatomical gift by words such as "donor", "organ donor", or "body donor", or by a symbol or statement of similar import, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection 7 of this section.

7. For purposes of subsections 2, 5, and 6 of this section, the following rules apply:

(1) If the part is an eye, the gift passes to the appropriate eye bank;

(2) If the part is tissue, the gift passes to the appropriate tissue bank;

(3) If the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ;

(4) If the gift is medically unsuitable for **[**transportation**]** **transplantation** or therapy, the gift may be used for research or education and pass to the appropriate procurement organization or cadaver procurement organization.

8. An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under subdivision (2) of subsection 1 of this section, passes to the organ procurement organization as custodian of the organ.

9. If an anatomical gift does not pass under subsections 1 through 8 of this section or the decedent's body or part is not used for transplantation, therapy, research, or education, custody of the body or part passes to the person under obligation to dispose of the body or part.

10. A person may not accept an anatomical gift if the person knows that the gift was not effectively made under section 194.225 or 194.250 or if the person knows that the decedent made a refusal under section 194.235 that was not revoked. For purposes of this subsection, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

11. A person may not accept an anatomical gift if the person knows that the gift is from the body of an executed prisoner from another country.

12. Except as otherwise provided in subdivision (2) of subsection 1 of this section, nothing in this act affects the allocation of organs for transplantation or therapy.

Approved June 4, 2014

HB 1665 [CCS SS SCS HCS HBs 1665 & 1335]

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

Changes the laws regarding the administration of justice

AN ACT to repeal sections 57.015, 57.201, 57.220, 57.250, 483.140, 544.216, 610.120, and 610.122, RSMo, and to enact in lieu thereof ten new sections relating to the administration of justice, with penalty provisions.

SECTION

A. Enacting clause.
57.015. Definitions.
57.201. Deputies, appointment, compensation — serve at pleasure of sheriff (certain first class counties).
57.220. Appointment of deputies, provisions of law to apply (second class counties).
57.250. Appointment of deputies — compensation — duty of circuit judges — presiding judge may order additional deputies, when — provisions of law to apply (third and fourth class counties).
407.1150. Publishing or disseminating criminal record information prohibited — definitions — violation, penalty.
483.140. Judge to superintend keeping of records.
544.216. Powers of arrest, arrest without warrant on suspicion persons violating any law of state including infractions, misdemeanors and ordinances, exception — power of municipal officer in unincorporated area.
610.120. Records to be confidential — accessible to whom, purposes.
610.122. Arrest record expunged, requirements.
1. Mandatory electronic filing jurisdictions, notice of entry of appearance to be accepted, when — expiration date.

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

SECTION A. ENACTING CLAUSE. — Sections 57.015, 57.201, 57.220, 57.250, 483.140, 544.216, 610.120, and 610.122, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 57.015, 57.201, 57.220, 57.250, 407.1150, 483.140, 544.216, 610.120, 610.122, and 1, to read as follows:

57.015. DEFINITIONS. — **[**As used in this chapter**]** **For purposes of section 57.275**, the following words and terms shall have the following meaning:

(1) "Deputy sheriff" or "officer", any deputy sheriff who is employed full time by a law enforcement agency, authorized by this chapter and certified pursuant to chapter 590. This term shall not include an officer serving in probationary status or one year, whichever is longer, upon initial employment. This term shall not include any deputy sheriff with the rank of lieutenant and above, or any chief deputies, under sheriffs and the command staff as defined by the sheriff's department policy and procedure manual;

(2) "Hearing", a closed meeting conducted by a hearing board appointed by the sheriff for the purpose of receiving evidence in order to determine the facts regarding the dismissal of a deputy sheriff. Witnesses to the event that triggered the dismissal may attend the hearing for the limited purpose of providing testimony; the attorney for the deputy dismissed may attend the hearing, but only to serve as an observer; the sheriff and his or her attorney may attend the hearing, but only to serve as an observer;

(3) "Hearing board", the individuals appointed by the sheriff for the purpose of receiving evidence in order to determine the facts regarding the dismissal of a deputy sheriff; and

(4) "Law enforcement agency", any county sheriff's office of this state that employs county law enforcement deputies authorized by this chapter and certified by chapter 590.

57.201. DEPUTIES, APPOINTMENT, COMPENSATION — SERVE AT PLEASURE OF SHERIFF (CERTAIN FIRST CLASS COUNTIES). — 1. The sheriff of all counties of the first class not having a charter form of government shall appoint such deputies, assistants and other employees as he deems necessary for the proper discharge of the duties of his office and may set their compensation within the limits of the allocations made for that purpose by the county commission. The compensation for the deputies, assistants and employees shall be paid in equal installments out of the county treasury in the same manner as other county employees are paid.

2. The assistants and employees shall hold office at the pleasure of the sheriff.

3. **[**Deputies**] A deputy sheriff, as the term "deputy sheriff" is defined under section 57.015** shall hold office pursuant to the provisions of sections 57.015 and 57.275.

57.220. APPOINTMENT OF DEPUTIES, PROVISIONS OF LAW TO APPLY (SECOND CLASS COUNTIES). — The sheriff, in a county of the second class, shall be entitled to such a number of deputies as a majority of the circuit judges of the circuit court shall deem necessary for the prompt and proper discharge of the duties of the sheriff's office; provided, however, such number of deputies appointed by the sheriff shall not be less than one chief deputy sheriff and one additional deputy for each five thousand inhabitants of the county according to the last decennial census. Such deputies shall be appointed by the sheriff, but no appointment shall become effective until approved by a majority of the circuit judges of the circuit court of the county. A majority of the circuit judges of the circuit court, by agreement with the sheriff, shall fix the salaries of such deputies. A statement of the number of deputies allowed the sheriff, and their compensation, together with the approval of any appointment by such judges of the circuit court, shall be in writing and signed by them and filed by the sheriff with the county commission. **[**Deputies**] A deputy sheriff as the term "deputy sheriff" is defined under section 57.015** shall hold office pursuant to the provisions of sections 57.015 and 57.275.

57.250. APPOINTMENT OF DEPUTIES — COMPENSATION — DUTY OF CIRCUIT JUDGES — PRESIDING JUDGE MAY ORDER ADDITIONAL DEPUTIES, WHEN — PROVISIONS OF LAW TO APPLY (THIRD AND FOURTH CLASS COUNTIES). — The sheriff in counties of the third and fourth classifications shall be entitled to such number of deputies and assistants, to be appointed by such official, with the approval of a majority of the circuit judges of the circuit court, as such judges shall deem necessary for the prompt and proper discharge of such sheriff's duties relative to the enforcement of the criminal law of this state. Such judges of the circuit court, in their order permitting the sheriff to appoint deputies or assistants, shall fix the compensation of such deputies or assistants. The circuit judges shall annually review their order fixing the number and

compensation of the deputies and assistants and in setting such number and compensation shall have due regard for the financial condition of the county. Each such order shall be entered of record and a certified copy thereof shall be filed in the office of the county clerk at least fifteen days prior to the date of the adoption of the county budget as prescribed by section 50.610. The sheriff may at any time discharge any assistant and may regulate the time of such person's employment. **[**Deputies**] A deputy sheriff as the term "deputy sheriff" is defined under section 57.015** shall hold office pursuant to the provisions of sections 57.015 and 57.275. At the request of the sheriff, the presiding judge may order additional deputies in cases where exigent or emergency circumstances require the need for such additional deputies.

407.1150. PUBLISHING OR DISSEMINATING CRIMINAL RECORD INFORMATION PROHIBITED — DEFINITIONS — VIOLATION, PENALTY. — 1. As used in this section, the following words and phrases shall mean:

(1) "Booking photograph", a photograph of a subject individual that was taken in this state by an arresting law enforcement agency;

(2) "Criminal record information", a booking photograph, or the name, address, charges filed, or a description of a subject individual who is asserted or implied to have engaged in illegal conduct;

(3) "Subject individual", an individual who was arrested and had his or her photograph taken by law enforcement during the processing of the arrest.

2. It shall be unlawful for any person engaged in publishing or otherwise disseminating criminal record information through a print or electronic medium to solicit or accept from a subject individual the payment of a fee or other consideration to remove or correct criminal record information.

3. A person who knowingly and willfully violates the provisions of this section shall be guilty of a class A misdemeanor.

4. Each payment solicited or accepted in violation of this section constitutes a separate violation.

5. In addition to the remedies already provided in this section, any subject individual who suffers a loss or harm as a result of a violation of this section may be awarded an amount equal to ten thousand dollars or actual and punitive damages, whichever is greater, and in addition may be awarded reasonable attorney's fees, court costs, and any other remedies provided by law. Humiliation or embarrassment shall be adequate to show that the plaintiff has incurred damages; however, no physical manifestation of either humiliation or embarrassment is necessary for damages to be shown.

483.140. JUDGE TO SUPERINTEND KEEPING OF RECORDS. — It shall be the special duty of every judge of a court of record to examine into and superintend the manner in which the rolls and records of the court are made up and kept; to prescribe orders that will procure uniformity, regularity and accuracy in the transaction of the business of the court; to require that the records and files be properly maintained and entries be made at the proper times as required by law or supreme court rule, and that the duties of the clerks be performed according to law and supreme court rule; and if any clerk fail to comply with the law, the court shall proceed against him as for a misdemeanor. **The provisions of this section shall not be construed to permit the adoption of any local court rule that grants a judge the discretion to remove or direct the removal of any pleading, file, or communication from a court file or record without notification to the parties and providing the parties an opportunity to respond.**

544.216. POWERS OF ARREST, ARREST WITHOUT WARRANT ON SUSPICION PERSONS VIOLATING ANY LAW OF STATE INCLUDING INFRACTIONS, MISDEMEANORS AND ORDINANCES, EXCEPTION — POWER OF MUNICIPAL OFFICER IN UNINCORPORATED AREA. — Except as otherwise provided in section 544.157, any sheriff or deputy sheriff, any member

of the Missouri state highway patrol, and any county or municipal law enforcement officer in this state, except those officers of a political subdivision or municipality having a population of less than two thousand persons or which does not have at least four full-time nonelected peace officers unless such subdivision or municipality has elected to come under and is operating pursuant to the provisions of sections 590.100 to 590.150, may arrest on view, and without a warrant, any person the officer sees violating or who such officer has reasonable grounds to believe has violated any **ordinance or** law of this state, including a misdemeanor or infraction, **[**or has violated any ordinance**]** over which such officer has jurisdiction. Peace officers of a municipality shall have arrest powers, as described in this section, upon lands which are leased or owned by the municipality in an unincorporated area. Ordinances enacted by a municipality, owning or leasing lands outside its boundaries, may be enforced by peace officers of the municipality upon such owned or leased lands. The power of arrest authorized by this section is in addition to all other powers conferred upon law enforcement officers, and shall not be construed so as to limit or restrict any other power of a law enforcement officer.

610.120. RECORDS TO BE CONFIDENTIAL — ACCESSIBLE TO WHOM, PURPOSES. — 1. **Except as otherwise provided under section 610.124,** records required to be closed shall not be destroyed; they shall be inaccessible to the general public and to all persons other than the defendant except as provided in this section and section 43.507. The closed records shall be available to: criminal justice agencies for the administration of criminal justice pursuant to section 43.500, criminal justice employment, screening persons with access to criminal justice facilities, procedures, and sensitive information; to law enforcement agencies for issuance or renewal of a license, permit, certification, or registration of authority from such agency including but not limited to watchmen, security personnel, private investigators, and persons seeking permits to purchase or possess a firearm; those agencies authorized by section 43.543 to submit and when submitting fingerprints to the central repository; the sentencing advisory commission created in section 558.019 for the purpose of studying sentencing practices in accordance with section 43.507; to qualified entities for the purpose of screening providers defined in section 43.540; the department of revenue for driver license administration; the division of workers' compensation for the purposes of determining eligibility for crime victims' compensation pursuant to sections 595.010 to 595.075, department of health and senior services for the purpose of licensing and regulating facilities and regulating in-home services provider agencies and federal agencies for purposes of criminal justice administration, criminal justice employment, child, elderly, or disabled care, and for such investigative purposes as authorized by law or presidential executive order.

2. These records shall be made available only for the purposes and to the entities listed in this section. A criminal justice agency receiving a request for criminal history information under its control may require positive identification, to include fingerprints of the subject of the record search, prior to releasing closed record information. Dissemination of closed and open records from the Missouri criminal records repository shall be in accordance with section 43.509. All records which are closed records shall be removed from the records of the courts, administrative agencies, and law enforcement agencies which are available to the public and shall be kept in separate records which are to be held confidential and, where possible, pages of the public record shall be retyped or rewritten omitting those portions of the record which deal with the defendant's case. If retyping or rewriting is not feasible because of the permanent nature of the record books, such record entries shall be blacked out and recopied in a confidential book.

610.122. ARREST RECORD EXPUNGED, REQUIREMENTS. — **1.** Notwithstanding other provisions of law to the contrary, any record of arrest recorded pursuant to section 43.503 may be expunged if**:**

(1) The court determines that the arrest was based on false information and the following conditions exist:

[(1)**] (a)** There is no probable cause, at the time of the action to expunge, to believe the individual committed the offense;

[(2)**] (b)** No charges will be pursued as a result of the arrest; **and**

[(3) The subject of the arrest has no prior or subsequent misdemeanor or felony convictions;

(4)**] (c)** The subject of the arrest did not receive a suspended imposition of sentence for the offense for which the arrest was made or for any offense related to the arrest; **[**and

(5) No civil action is pending relating to the arrest or the records sought to be expunged**] or**

(2) The court determines the person was arrested for, or was subsequently charged with, a misdemeanor offense of chapter 303 or any moving violation as the term "moving violation" is defined under section 302.010, except for any intoxication-related traffic offense as "intoxication-related traffic offense" is defined under section 577.023 and:

(a) Each such offense or violation related to the arrest was subsequently nolle prossed or dismissed, or the accused was found not guilty of each offense or violation; and

(b) The person is not a commercial driver's license holder and was not operating a commercial motor vehicle at the time of the arrest.

2. A record of arrest shall only be eligible for expungement under this section if:

(1) The subject of the arrest has no prior or subsequent misdemeanor or felony convictions; and

(2) No civil action is pending relating to the arrest or the records sought to be expunged.

SECTION 1. MANDATORY ELECTRONIC FILING JURISDICTIONS, NOTICE OF ENTRY OF APPEARANCE TO BE ACCEPTED, WHEN — EXPIRATION DATE. — All courts that require mandatory electronic filing shall accept, file, and docket a notice of entry of appearance filed by an attorney in a criminal case if such filing does not exceed one page in length and was sent by fax or regular mail. The provisions of this section shall expire on December 31, 2016.

Approved July 8, 2014

HB 1685 [CCS#2 SS HCS HB 1685]

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

Allows physicians to prescribe certain investigational drugs, biological products, or devices to certain eligible terminally ill patients

AN ACT to amend chapter 191, RSMo, by adding thereto one new section relating to the use of investigational drugs.

SECTION

A. Enacting clause.

191.480. Manufacturers may make investigational drugs and devices available to eligible patients, when — definitions — requirements.

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

SECTION A. ENACTING CLAUSE. — Chapter 191, RSMo, is amended by adding thereto one new section, to be known as section 191.480, to read as follows:

191.480. MANUFACTURERS MAY MAKE INVESTIGATIONAL DRUGS AND DEVICES AVAILABLE TO ELIGIBLE PATIENTS, WHEN — DEFINITIONS — REQUIREMENTS. — 1. For purposes of this section, the following terms shall mean:

(1) "Eligible patient", a person who meets all of the following:

(a) Has a terminal illness;

(b) Has considered all other treatment options currently approved by the United States Food and Drug Administration and all relevant clinical trials conducted in this state;

(c) Has received a prescription or recommendation from the person's physician for an investigational drug, biological product, or device;

(d) Has given written informed consent which shall be at least as comprehensive as the consent used in clinical trials for the use of the investigational drug, biological product, or device or, if the patient is a minor or lacks the mental capacity to provide informed consent, a parent or legal guardian has given written informed consent on the patient's behalf; and

(e) Has documentation from the person's physician that the person has met the requirements of this subdivision;

(2) "Investigational drug, biological product, or device", a drug, biological product, or device, any of which are used to treat the patient's terminal illness, that has successfully completed phase one of a clinical trial but has not been approved for general use by the United States Food and Drug Administration and remains under investigation in a clinical trial. The term shall not include Schedule I controlled substances;

(3) "Terminal illness", a disease that without life-sustaining procedures will result in death in the near future or a state of permanent unconsciousness from which recovery is unlikely.

2. A manufacturer of an investigational drug, biological product, or device may make available the manufacturer's investigational drug, biological product, or device to eligible patients under this section. This section does not require that a manufacturer make available an investigational drug, biological product, or device to an eligible patient. A manufacturer may:

(1) Provide an investigational drug, biological product, or device to an eligible patient without receiving compensation; or

(2) Require an eligible patient to pay the costs of or associated with the manufacture of the investigational drug, biological product, or device.

3. This section does not require a health care insurer to provide coverage for the cost of any investigational drug, biological product, or device. A health care insurer may provide coverage for an investigational drug, biological product, or device.

4. This section does not require the department of corrections to provide coverage for the cost of any investigational drug, biological product, or device.

5. Notwithstanding any other provision of law to the contrary, no state agency or regulatory board shall revoke, fail to renew, or take any other action against a physician's license issued under chapter 334 based solely on the physician's recommendation to an eligible patient regarding prescription for or treatment with an investigational drug, biological product, or device. Action against a health care provider's Medicare certification based solely on the health care provider's recommendation that a patient have access to an investigational drug, biological product, or device is prohibited.

6. If a provision of this section or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

7. If the clinical trial is closed due to lack of efficacy or toxicity, the drug shall not be offered. If notice is given on a drug, product, or device taken by a patient outside of a

clinical trial, the pharmaceutical company or patient's physician shall notify the patient of the information from the safety committee of the clinical trial.

8. Except in the case of gross negligence or willful misconduct, any person who manufactures, imports, distributes, prescribes, dispenses, or administers an investigational drug or device to an eligible patient with a terminal illness in accordance with this section shall not be liable in any action under state law for any loss, damage, or injury arising out of, relating to, or resulting from:

(1) The design, development, clinical testing and investigation, manufacturing, labeling, distribution, sale, purchase, donation, dispensing, prescription, administration, or use of the drug or device; or

(2) The safety or effectiveness of the drug or device.

Approved July 14, 2014

HB 1689 [SCS HCS HB 1689]

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

Changes the laws regarding early childhood education programs and the funding formula for school districts that participate in the USDA Community Eligibility Option.

AN ACT to repeal sections 160.053, 160.054, 160.055, 163.011, and 163.031, RSMo, and to enact in lieu thereof six new sections relating to elementary and secondary education, with an effective date.

SECTION

A. Enacting clause.
160.053. Child eligible for prekindergarten, kindergarten, and summer school, when — child eligible for first grade, when — state aid exception.
160.054. Metropolitan districts — child eligible for prekindergartens, kindergarten, and summer school, when, how determined — child eligible for first grade, when, how determined — exceptions.
160.055. Urban districts — child eligible for prekindergarten, kindergarten, and summer school, when, how determined — child eligible for first grade, when, how determined.
163.011. Definitions — method of calculating state aid.
163.018. Early childhood education programs, pupils included in average daily attendance calculation, when — applicability for unaccredited districts, provisionally accredited districts, and other districts.
163.031. State aid — amount, how determined — categorical add-on revenue, determination of amount — district apportionment, determination of — waiver of rules — deposits to teachers' fund and incidental fund, when — state adequacy target adjustment, when.
B. Delayed effective date.

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

SECTION A. ENACTING CLAUSE. — Sections 160.053, 160.054, 160.055, 163.011, and 163.031, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 160.053, 160.054, 160.055, 163.011, 163.018, and 163.031, to read as follows:

160.053. CHILD ELIGIBLE FOR PREKINDERGARTEN, KINDERGARTEN, AND SUMMER SCHOOL, WHEN — CHILD ELIGIBLE FOR FIRST GRADE, WHEN — STATE AID EXCEPTION. — 1. **If a school district maintains a prekindergarten program, a child is eligible for admission to that prekindergarten program only if the child has reached the age of three before the first day of August of the school year beginning in that calendar year.** If a school district maintains a kindergarten program, a child is eligible for admission to kindergarten and to the summer school session immediately preceding kindergarten, if offered,

if the child reaches the age of five before the first day of August of the school year beginning in that calendar year or if the child is a military dependent who has successfully completed an accredited prekindergarten program or has attended an accredited kindergarten program in another state. A child is eligible for admission to first grade if the child reaches the age of six before the first day of August of the school year beginning in that calendar year or if the child is a military dependent who has successfully completed an accredited kindergarten program in another state.

2. Any kindergarten or grade one pupil beginning the school term and any pupil beginning summer school prior to a kindergarten school term in a metropolitan school district or an urban school district containing the greater part of the population of a city which has more than three hundred thousand inhabitants pursuant to section 160.054 or 160.055 and subsequently transferring to another school district in this state in which the child's birth date would preclude such child's eligibility for entrance shall be deemed eligible for attendance and shall not be required to meet the minimum age requirements. The receiving school district shall receive state aid for the child, notwithstanding the provisions of section 160.051.

3. Any child who completes the kindergarten year shall not be required to meet the age requirements of a district for entrance into grade one.

4. The provisions of this section relating to kindergarten instruction and state aid therefor shall not apply during any particular school year to those districts which do not provide kindergarten classes that year.

160.054. METROPOLITAN DISTRICTS — CHILD ELIGIBLE FOR PREKINDERGARTENS, KINDERGARTEN, AND SUMMER SCHOOL, WHEN, HOW DETERMINED — CHILD ELIGIBLE FOR FIRST GRADE, WHEN, HOW DETERMINED — EXCEPTIONS. — 1. Notwithstanding any provisions of sections 160.051 and 160.053, to the contrary, beginning with the 1997-98 school year, all metropolitan school districts, except as provided in subsection 2 of this section, may establish and enforce a regulation which requires that a child shall have attained the age of **three by August first for purposes of prekindergarten if a school district maintains such a program, the age of** five for purposes of kindergarten and summer school prior to a kindergarten school term, and the age of six for purposes of grade one, on or before any date between August first and October first of that year. The school district shall receive state aid for any child admitted to kindergarten, summer school prior to kindergarten, or grade one pursuant to this section, notwithstanding the provisions of section 160.051.

2. Any kindergarten or grade one pupil beginning the school term and any pupil beginning summer school prior to a kindergarten school term in a metropolitan school district and subsequently transferring to another school district in this state in which the child's birth date would preclude such child's eligibility for entrance shall be deemed eligible for attendance and shall not be required to meet the minimum age requirements. The receiving school district shall receive state aid for the child, notwithstanding the provisions of section 160.051.

3. Any child who completes the kindergarten year in a metropolitan school district shall not be required to meet the minimum age requirements of another school district in this state for entrance into grade one.

4. The provisions of subsections 1 and 2 of this section, relating to kindergarten instruction and state aid therefor, shall not apply during any particular school year to those districts which do not provide kindergarten classes that year.

160.055. URBAN DISTRICTS — CHILD ELIGIBLE FOR PREKINDERGARTEN, KINDERGARTEN, AND SUMMER SCHOOL, WHEN, HOW DETERMINED — CHILD ELIGIBLE FOR FIRST GRADE, WHEN, HOW DETERMINED. — 1. Notwithstanding any provisions of sections 160.051 and 160.053, to the contrary, beginning with the 1997-98 school year, all urban school districts containing the greater part of the population of a city which has more than three hundred thousand inhabitants, except as provided in subsection 2 of this section, may establish and

enforce a regulation which requires that a child shall have attained the age of **three by August first for purposes of prekindergarten if a school district maintains such a program, the age of** five for purposes of kindergarten and summer school prior to a kindergarten school term, and the age of six for purposes of grade one, on or before any date between August first and October first of that year. The school district shall receive state aid for any child admitted to kindergarten, summer school prior to kindergarten, or grade one pursuant to this section, notwithstanding the provisions of section 160.051.

2. Any kindergarten or grade one pupil beginning the school term and any pupil beginning summer school prior to a kindergarten school term in an urban school district in this state containing the greater part of the population of a city which has more than three hundred thousand inhabitants and subsequently transferring to another school district in this state in which the child's birth date would preclude such child's eligibility for entrance shall be deemed eligible for attendance and shall not be required to meet the minimum age requirements. The receiving school district shall receive state aid for the child, notwithstanding the provisions of section 160.051.

3. Any child who completes the kindergarten year in an urban school district containing the greater part of the population of a city which has more than three hundred thousand inhabitants shall not be required to meet the minimum age requirements of another school district in this state for entrance into grade one.

4. The provisions of subsections 1 and 2 of this section, relating to kindergarten instruction and state aid therefor, shall not apply during any particular school year to those districts which do not provide kindergarten classes that year.

163.011. DEFINITIONS — METHOD OF CALCULATING STATE AID. — As used in this chapter unless the context requires otherwise:

(1) "Adjusted operating levy", the sum of tax rates for the current year for teachers' and incidental funds for a school district as reported to the proper officer of each county pursuant to section 164.011;

(2) "Average daily attendance", the quotient or the sum of the quotients obtained by dividing the total number of hours attended in a term by resident pupils between the ages of five and twenty-one by the actual number of hours school was in session in that term. To the average daily attendance of the following school term shall be added the full-time equivalent average daily attendance of summer school students. "Full-time equivalent average daily attendance of summer school students" shall be computed by dividing the total number of hours, except for physical education hours that do not count as credit toward graduation for students in grades nine, ten, eleven, and twelve, attended by all summer school pupils by the number of hours required in section 160.011 in the school term. For purposes of determining average daily attendance under this subdivision, the term "resident pupil" shall include all children between the ages of five and twenty-one who are residents of the school district and who are attending kindergarten through grade twelve in such district. If a child is attending school in a district other than the district of residence and the child's parent is teaching in the school district or is a regular employee of the school district which the child is attending, then such child shall be considered a resident pupil of the school district which the child is attending for such period of time when the district of residence is not otherwise liable for tuition. Average daily attendance for students below the age of five years for which a school district may receive state aid based on such attendance shall be computed as regular school term attendance unless otherwise provided by law;

(3) "Current operating expenditures":

(a) For the fiscal year 2007 calculation, "current operating expenditures" shall be calculated using data from fiscal year 2004 and shall be calculated as all expenditures for instruction and support services except capital outlay and debt service expenditures minus the revenue from federal categorical sources; food service; student activities; categorical payments for

transportation costs pursuant to section 163.161; state reimbursements for early childhood special education; the career ladder entitlement for the district, as provided for in sections 168.500 to 168.515; the vocational education entitlement for the district, as provided for in section 167.332; and payments from other districts;

(b) In every fiscal year subsequent to fiscal year 2007, current operating expenditures shall be the amount in paragraph (a) of this subdivision plus any increases in state funding pursuant to sections 163.031 and 163.043 subsequent to fiscal year 2005, not to exceed five percent, per recalculation, of the state revenue received by a district in the 2004-05 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments for any district from the first preceding calculation of the state adequacy target. Beginning on July 1, 2010, current operating expenditures shall be the amount in paragraph (a) of this subdivision plus any increases in state funding pursuant to sections 163.031 and 163.043 subsequent to fiscal year 2005 received by a district in the 2004-05 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments for any district from the first preceding calculation of the state adequacy target;

(4) "District's tax rate ceiling", the highest tax rate ceiling in effect subsequent to the 1980 tax year or any subsequent year. Such tax rate ceiling shall not contain any tax levy for debt service;

(5) "Dollar-value modifier", an index of the relative purchasing power of a dollar, calculated as one plus fifteen percent of the difference of the regional wage ratio minus one, provided that the dollar value modifier shall not be applied at a rate less than 1.0:

(a) "County wage per job", the total county wage and salary disbursements divided by the total county wage and salary employment for each county and the city of St. Louis as reported by the Bureau of Economic Analysis of the United States Department of Commerce for the fourth year preceding the payment year;

(b) "Regional wage per job":

a. The total Missouri wage and salary disbursements of the metropolitan area as defined by the Office of Management and Budget divided by the total Missouri metropolitan wage and salary employment for the metropolitan area for the county signified in the school district number or the city of St. Louis, as reported by the Bureau of Economic Analysis of the United States Department of Commerce for the fourth year preceding the payment year and recalculated upon every decennial census to incorporate counties that are newly added to the description of metropolitan areas; or if no such metropolitan area is established, then:

b. The total Missouri wage and salary disbursements of the micropolitan area as defined by the Office of Management and Budget divided by the total Missouri micropolitan wage and salary employment for the micropolitan area for the county signified in the school district number, as reported by the Bureau of Economic Analysis of the United States Department of Commerce for the fourth year preceding the payment year, if a micropolitan area for such county has been established and recalculated upon every decennial census to incorporate counties that are newly added to the description of micropolitan areas; or

c. If a county is not part of a metropolitan or micropolitan area as established by the Office of Management and Budget, then the county wage per job, as defined in paragraph (a) of this subdivision, shall be used for the school district, as signified by the school district number;

(c) "Regional wage ratio", the ratio of the regional wage per job divided by the state median wage per job;

(d) "State median wage per job", the fifty-eighth highest county wage per job;

(6) "Free and reduced lunch pupil count", **for school districts not eligible for and those that do not choose the USDA Community Eligibility Option,** the number of pupils eligible for free and reduced lunch on the last Wednesday in January for the preceding school year who were enrolled as students of the district, as approved by the department in accordance with applicable federal regulations**. For eligible school districts that choose the USDA**

Community Eligibility Option, the free and reduced lunch pupil count shall be the percentage of free and reduced lunch students calculated as eligible on the last Wednesday in January of the most recent school year that included household applications to determine free and reduced lunch count multiplied by the district's average daily attendance figure;

(7) "Free and reduced lunch threshold" shall be calculated by dividing the total free and reduced lunch pupil count of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

(8) "Limited English proficiency pupil count", the number in the preceding school year of pupils aged three through twenty-one enrolled or preparing to enroll in an elementary school or secondary school who were not born in the United States or whose native language is a language other than English or are Native American or Alaskan native, or a native resident of the outlying areas, and come from an environment where a language other than English has had a significant impact on such individuals' level of English language proficiency, or are migratory, whose native language is a language other than English, and who come from an environment where a language other than English is dominant; and have difficulties in speaking, reading, writing, or understanding the English language sufficient to deny such individuals the ability to meet the state's proficient level of achievement on state assessments described in Public Law 107-10, the ability to achieve successfully in classrooms where the language of instruction is English, or the opportunity to participate fully in society;

(9) "Limited English proficiency threshold" shall be calculated by dividing the total limited English proficiency pupil count of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

(10) "Local effort":

(a) For the fiscal year 2007 calculation, "local effort" shall be computed as the equalized assessed valuation of the property of a school district in calendar year 2004 divided by one hundred and multiplied by the performance levy less the percentage retained by the county assessor and collector plus one hundred percent of the amount received in fiscal year 2005 for school purposes from intangible taxes, fines, escheats, payments in lieu of taxes and receipts from state-assessed railroad and utility tax, one hundred percent of the amount received for school purposes pursuant to the merchants' and manufacturers' taxes under sections 150.010 to 150.370, one hundred percent of the amounts received for school purposes from federal properties under sections 12.070 and 12.080 except when such amounts are used in the calculation of federal impact aid pursuant to P.L. 81-874, fifty percent of Proposition C revenues received for school purposes from the school district trust fund under section 163.087, and one hundred percent of any local earnings or income taxes received by the district for school purposes. Under this paragraph, for a special district established under sections 162.815 to 162.940 in a county with a charter form of government and with more than one million inhabitants, a tax levy of zero shall be utilized in lieu of the performance levy for the special school district;

(b) In every year subsequent to fiscal year 2007, "local effort" shall be the amount calculated under paragraph (a) of this subdivision plus any increase in the amount received for school purposes from fines. If a district's assessed valuation has decreased subsequent to the calculation outlined in paragraph (a) of this subdivision, the district's local effort shall be calculated using the district's current assessed valuation in lieu of the assessed valuation utilized in the calculation outlined in paragraph (a) of this subdivision**. When a change in a school district's boundary lines occurs because of a boundary line change, annexation, attachment, consolidation, reorganization, or dissolution under section 162.071, 162.081,**

sections 162.171 to 162.201, section 162.221, 162.223, 162.431, 162.441, or 162.451, or in the event that a school district assumes any territory from a district that ceases to exist for any reason, the department of elementary and secondary education shall make a proper adjustment to each affected district's local effort, so that each district's local effort figure conforms to the new boundary lines of the district. The department shall compute the local effort figure by applying the calendar year 2004 assessed valuation data to the new land areas resulting from the boundary line change, annexation, attachment, consolidation, reorganization, or dissolution and otherwise follow the procedures described in this subdivision;

(11) "Membership" shall be the average of:

(a) The number of resident full-time students and the full-time equivalent number of part-time students who were enrolled in the public schools of the district on the last Wednesday in September of the previous year and who were in attendance one day or more during the preceding ten school days; and

(b) The number of resident full-time students and the full-time equivalent number of part-time students who were enrolled in the public schools of the district on the last Wednesday in January of the previous year and who were in attendance one day or more during the preceding ten school days, plus the full-time equivalent number of summer school pupils. "Full-time equivalent number of part-time students" is determined by dividing the total number of hours for which all part-time students are enrolled by the number of hours in the school term. "Full-time equivalent number of summer school pupils" is determined by dividing the total number of hours for which all summer school pupils were enrolled by the number of hours required pursuant to section 160.011 in the school term. Only students eligible to be counted for average daily attendance shall be counted for membership;

(12) "Operating levy for school purposes", the sum of tax rates levied for teachers' and incidental funds plus the operating levy or sales tax equivalent pursuant to section 162.1100 of any transitional school district containing the school district, in the payment year, not including any equalized operating levy for school purposes levied by a special school district in which the district is located;

(13) "Performance district", any district that has met [all] performance standards and indicators as established by the department of elementary and secondary education for purposes of accreditation under section 161.092 and as reported on the final annual performance report for that district each year**; for calculations to be utilized for payments in fiscal years subsequent to fiscal year 2018, the number of performance districts shall not exceed twenty-five percent of all public school districts**;

(14) "Performance levy", three dollars and forty-three cents;

(15) "School purposes" pertains to teachers' and incidental funds;

(16) "Special education pupil count", the number of public school students with a current individualized education program or services plan and receiving services from the resident district as of December first of the preceding school year, except for special education services provided through a school district established under sections 162.815 to 162.940 in a county with a charter form of government and with more than one million inhabitants, in which case the sum of the students in each district within the county exceeding the special education threshold of each respective district within the county shall be counted within the special district and not in the district of residence for purposes of distributing the state aid derived from the special education pupil count;

(17) "Special education threshold" shall be calculated by dividing the total special education pupil count of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

(18) "State adequacy target", the sum of the current operating expenditures of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, divided by the total average daily attendance of all included performance districts. The department of elementary and secondary education shall first calculate the state adequacy target for fiscal year 2007 and recalculate the state adequacy target every two years using the most current available data. The recalculation shall never result in a decrease from the previous state adequacy target amount. Should a recalculation result in an increase in the state adequacy target amount, fifty percent of that increase shall be included in the state adequacy target amount in the year of recalculation, and fifty percent of that increase shall be included in the state adequacy target amount in the subsequent year. The state adequacy target may be adjusted to accommodate available appropriations **as provided in subsection 8 of section 163.031**;

(19) "Teacher", any teacher, teacher-secretary, substitute teacher, supervisor, principal, supervising principal, superintendent or assistant superintendent, school nurse, social worker, counselor or librarian who shall, regularly, teach or be employed for no higher than grade twelve more than one-half time in the public schools and who is certified under the laws governing the certification of teachers in Missouri;

(20) "Weighted average daily attendance", the average daily attendance plus the product of twenty-five hundredths multiplied by the free and reduced lunch pupil count that exceeds the free and reduced lunch threshold, plus the product of seventy-five hundredths multiplied by the number of special education pupil count that exceeds the special education threshold, plus the product of six-tenths multiplied by the number of limited English proficiency pupil count that exceeds the limited English proficiency threshold. For special districts established under sections 162.815 to 162.940 in a county with a charter form of government and with more than one million inhabitants, weighted average daily attendance shall be the average daily attendance plus the product of twenty-five hundredths multiplied by the free and reduced lunch pupil count that exceeds the free and reduced lunch threshold, plus the product of seventy-five hundredths multiplied by the sum of the special education pupil count that exceeds the threshold for each county district, plus the product of six-tenths multiplied by the limited English proficiency pupil count that exceeds the limited English proficiency threshold. None of the districts comprising a special district established under sections 162.815 to 162.940 in a county with a charter form of government and with more than one million inhabitants, shall use any special education pupil count in calculating their weighted average daily attendance.

163.018. EARLY CHILDHOOD EDUCATION PROGRAMS, PUPILS INCLUDED IN AVERAGE DAILY ATTENDANCE CALCULATION, WHEN — APPLICABILITY FOR UNACCREDITED DISTRICTS, PROVISIONALLY ACCREDITED DISTRICTS, AND OTHER DISTRICTS. — 1. Notwithstanding the definition of "average daily attendance" in subdivision (2) of section 163.011 to the contrary, pupils between the ages of three and five who are eligible for free and reduced lunch and attend an early childhood education program that is operated by and in a district or by a charter school that has declared itself as a local educational agency providing full-day kindergarten and that meets standards established by the state board of education, shall be included in the district's or charter school's calculation of average daily attendance. The total number of such pupils included in the district's or charter school's calculation of average daily attendance shall not exceed four percent of the total number of pupils who are eligible for free and reduced lunch between the ages of three and eighteen who are included in the district's or charter school's calculation of average daily attendance.

2. (1) For any district that has been declared unaccredited by the state board of education and remains unaccredited as of July 1, 2015, the provisions of subsection 1 of this section shall become applicable during the 2015-2016 school year;

(2) For any district that is declared unaccredited by the state board of education after July 1, 2015, the provisions of subsection 1 of this section shall become applicable immediately upon such declaration;

(3) For any district that has been declared provisionally accredited by the state board of education and remains provisionally accredited as of July 1, 2016, the provisions of subsection 1 of this section shall become applicable beginning in the 2016-2017 school year;

(4) For any district that is declared provisionally accredited by the state board of education after July 1, 2016, the provisions of this section shall become applicable beginning in the 2016-2017 school year or immediately upon such declaration, whichever is later;

(5) For all other districts, the provisions of subsection 1 of this section shall become effective in any school year subsequent to a school year in which the amount appropriated for subsections 1 and 2 of section 163.031 is equal to or exceeds the amount necessary to fund the entire entitlement calculation determined by subsections 1 and 2 of section 163.031, and shall remain effective in all school years thereafter, irrespective of the amount appropriated for subsections 1 and 2 of section 163.031 in any succeeding year.

3. This section shall not require school attendance beyond that mandated under section 167.031 and shall not change or amend the provisions of sections 160.051, 160.053, 160.054, and 160.055 relating to kindergarten attendance.

163.031. STATE AID — AMOUNT, HOW DETERMINED — CATEGORICAL ADD-ON REVENUE, DETERMINATION OF AMOUNT — DISTRICT APPORTIONMENT, DETERMINATION OF — WAIVER OF RULES — DEPOSITS TO TEACHERS' FUND AND INCIDENTAL FUND, WHEN — STATE ADEQUACY TARGET ADJUSTMENT, WHEN. — 1. The department of elementary and secondary education shall calculate and distribute to each school district qualified to receive state aid under section 163.021 an amount determined by multiplying the district's weighted average daily attendance by the state adequacy target, multiplying this product by the dollar value modifier for the district, and subtracting from this product the district's local effort and, in years not governed under subsection 4 of this section, subtracting payments from the classroom trust fund under section 163.043.

2. Other provisions of law to the contrary notwithstanding:

(1) For districts with an average daily attendance of more than three hundred fifty in the school year preceding the payment year:

(a) For the 2006-07 school year, the state revenue per weighted average daily attendance received by a district from the state aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust fund under section 163.043 shall not be less than the state revenue received by a district in the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts multiplied by the sum of one plus the product of one-third multiplied by the remainder of the dollar value modifier minus one, and dividing this product by the weighted average daily attendance computed for the 2005-06 school year;

(b) For the 2007-08 school year, the state revenue per weighted average daily attendance received by a district from the state aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust fund under section 163.043 shall not be less than the state revenue received by a district in the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts multiplied by the sum of one plus the product of two-thirds multiplied by the remainder of the dollar value modifier minus one, and dividing this product by the weighted average daily attendance computed for the 2005-06 school year;

(c) For the 2008-09 school year, the state revenue per weighted average daily attendance received by a district from the state aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust fund under section 163.043 shall not be less than the state

revenue received by a district in the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts multiplied by the dollar value modifier, and dividing this product by the weighted average daily attendance computed for the 2005-06 school year;

(d) For each year subsequent to the 2008-09 school year, the amount shall be no less than that computed in paragraph (c) of this subdivision, multiplied by the weighted average daily attendance pursuant to section 163.036, less any increase in revenue received from the classroom trust fund under section 163.043;

(2) For districts with an average daily attendance of three hundred fifty or less in the school year preceding the payment year:

(a) For the 2006-07 school year, the state revenue received by a district from the state aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust fund under section 163.043 shall not be less than the greater of state revenue received by a district in the 2004-05 or 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts multiplied by the sum of one plus the product of one-third multiplied by the remainder of the dollar value modifier minus one;

(b) For the 2007-08 school year, the state revenue received by a district from the state aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust fund under section 163.043 shall not be less than the greater of state revenue received by a district in the 2004-05 or 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts multiplied by the sum of one plus the product of two-thirds multiplied by the remainder of the dollar value modifier minus one;

(c) For the 2008-09 school year, the state revenue received by a district from the state aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust fund under section 163.043 shall not be less than the greater of state revenue received by a district in the 2004-05 or 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts multiplied by the dollar value modifier;

(d) For each year subsequent to the 2008-09 school year, the amount shall be no less than that computed in paragraph (c) of this subdivision;

(3) The department of elementary and secondary education shall make an addition in the payment amount specified in subsection 1 of this section to assure compliance with the provisions contained in this subsection.

3. School districts that meet the requirements of section 163.021 shall receive categorical add-on revenue as provided in this subsection. The categorical add-on for the district shall be the sum of: seventy-five percent of the district allowable transportation costs under section 163.161; the career ladder entitlement for the district, as provided for in sections 168.500 to 168.515; the vocational education entitlement for the district, as provided for in section 167.332; and the district educational and screening program entitlements as provided for in sections 178.691 to 178.699. The categorical add-on revenue amounts may be adjusted to accommodate available appropriations.

4. In the 2006-07 school year and each school year thereafter for five years, those districts entitled to receive state aid under the provisions of subsection 1 of this section shall receive state aid in an amount as provided in this subsection.

(1) For the 2006-07 school year, the amount shall be fifteen percent of the amount of state aid calculated for the district for the 2006-07 school year under the provisions of subsection 1 of this section, plus eighty-five percent of the total amount of state revenue received by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received under section 163.043.

(2) For the 2007-08 school year, the amount shall be thirty percent of the amount of state aid calculated for the district for the 2007-08 school year under the provisions of subsection 1 of this section, plus seventy percent of the total amount of state revenue received by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received under section 163.043.

(3) For the 2008-09 school year, the amount of state aid shall be forty-four percent of the amount of state aid calculated for the district for the 2008-09 school year under the provisions of subsection 1 of this section plus fifty-six percent of the total amount of state revenue received by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received under section 163.043.

(4) For the 2009-10 school year, the amount of state aid shall be fifty-eight percent of the amount of state aid calculated for the district for the 2009-10 school year under the provisions of subsection 1 of this section plus forty-two percent of the total amount of state revenue received by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received under section 163.043.

(5) For the 2010-11 school year, the amount of state aid shall be seventy-two percent of the amount of state aid calculated for the district for the 2010-11 school year under the provisions of subsection 1 of this section plus twenty-eight percent of the total amount of state revenue received by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received under section 163.043.

(6) For the 2011-12 school year, the amount of state aid shall be eighty-six percent of the amount of state aid calculated for the district for the 2011-12 school year under the provisions of subsection 1 of this section plus fourteen percent of the total amount of state revenue received by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received under section 163.043.

(7) (a) [Notwithstanding subdivision (18) of section 163.011, the state adequacy target may not be adjusted downward to accommodate available appropriations in any year governed by this subsection.

(b)] a. For the 2006-07 school year, if a school district experiences a decrease in summer school average daily attendance of more than twenty percent from the district's 2005-06 summer school average daily attendance, an amount equal to the product of the percent reduction that is in excess of twenty percent of the district's summer school average daily attendance multiplied by the funds generated by the district's summer school program in the 2005-06 school year shall be subtracted from the district's current year payment amount.

b. For the 2007-08 school year, if a school district experiences a decrease in summer school average daily attendance of more than thirty percent from the district's 2005-06 summer school average daily attendance, an amount equal to the product of the percent reduction that is in excess of thirty percent of the district's summer school average daily attendance multiplied by the funds generated by the district's summer school program in the 2005-06 school year shall be subtracted from the district's payment amount.

c. For the 2008-09 school year, if a school district experiences a decrease in summer school average daily attendance of more than thirty-five percent from the district's 2005-06 summer school average daily attendance, an amount equal to the product of the percent reduction that is in excess of thirty-five percent of the district's summer school average daily attendance multiplied by the funds generated by the district's summer school program in the 2005-06 school year shall be subtracted from the district's payment amount.

d. Notwithstanding the provisions of this paragraph, no such reduction shall be made in the case of a district that is receiving a payment under section 163.044 or any district whose regular school term average daily attendance for the preceding year was three hundred fifty or less.

e. This paragraph shall not be construed to permit any reduction applied under this paragraph to result in any district receiving a current-year payment that is less than the amount calculated for such district under subsection 2 of this section.

[(c)] **(b)** If a school district experiences a decrease in its gifted program enrollment of more than twenty percent from its 2005-06 gifted program enrollment in any year governed by this subsection, an amount equal to the product of the percent reduction in the district's gifted program enrollment multiplied by the funds generated by the district's gifted program in the 2005-06 school year shall be subtracted from the district's current year payment amount.

5. For any school district meeting the eligibility criteria for state aid as established in section 163.021, but which is considered an option district under section 163.042 and therefore receives no state aid, the commissioner of education shall present a plan to the superintendent of the school district for the waiver of rules and the duration of said waivers, in order to promote flexibility in the operations of the district and to enhance and encourage efficiency in the delivery of instructional services as provided in section 163.042.

6. (1) No less than seventy-five percent of the state revenue received under the provisions of subsections 1, 2, and 4 of this section shall be placed in the teachers' fund, and the remaining percent of such moneys shall be placed in the incidental fund. No less than seventy-five percent of one-half of the funds received from the school district trust fund distributed under section 163.087 shall be placed in the teachers' fund. One hundred percent of revenue received under the provisions of section 163.161 shall be placed in the incidental fund. One hundred percent of revenue received under the provisions of sections 168.500 to 168.515 shall be placed in the teachers' fund.

(2) A school district shall spend for certificated compensation and tuition expenditures each year:

(a) An amount equal to at least seventy-five percent of the state revenue received under the provisions of subsections 1, 2, and 4 of this section;

(b) An amount equal to at least seventy-five percent of one-half of the funds received from the school district trust fund distributed under section 163.087 during the preceding school year; and

(c) Beginning in fiscal year 2008, as much as was spent per the second preceding year's weighted average daily attendance for certificated compensation and tuition expenditures the previous year from revenue produced by local and county tax sources in the teachers' fund, plus the amount of the incidental fund to teachers' fund transfer calculated to be local and county tax sources by dividing local and county tax sources in the incidental fund by total revenue in the incidental fund. In the event a district fails to comply with this provision, the amount by which the district fails to spend funds as provided herein shall be deducted from the district's state revenue received under the provisions of subsections 1, 2, and 4 of this section for the following year, provided that the state board of education may exempt a school district from this provision if the state board of education determines that circumstances warrant such exemption.

7. If a school district's annual audit discloses that students were inappropriately identified as eligible for free and reduced lunch, special education, or limited English proficiency and the district does not resolve the audit finding, the department of elementary and secondary education shall require that the amount of aid paid pursuant to the weighting for free and reduced lunch, special education, or limited English proficiency in the weighted average daily attendance on the inappropriately identified pupils be repaid by the district in the next school year and shall additionally impose a penalty of one hundred percent of such aid paid on such pupils, which penalty shall also be paid within the next school year. Such amounts may be repaid by the district through the withholding of the amount of state aid.

8. Notwithstanding any provision of law to the contrary, in any fiscal year during which the total formula appropriation is insufficient to fully fund the entitlement calculation of this section, the department of elementary and secondary education shall adjust the state adequacy target in order to accommodate the appropriation level for the given fiscal year. In no manner shall any payment modification be rendered for any district qualified to receive payments under subsection 2 of this section based on insufficient appropriations.

SECTION B. DELAYED EFFECTIVE DATE — Section A of this act shall become effective July 1, 2015.

Approved July 9, 2014

HB 1692 [SCS HB 1692]

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

Requires all members of a public water supply district board of directors to be voters who have resided in the district for one year prior to election

AN ACT to repeal sections 247.060 and 247.080, RSMo, and to enact in lieu thereof three new sections relating to public utility districts.

SECTION

A. Enacting clause.
247.060. Board of directors — powers, qualifications, appointment, terms, vacancies, how filled — elections held, when, procedure — attendance fee — suspension of members, when.
247.080. Board — further powers.
249.424. Lateral server line repair, annual fee authorized — submitted to voters, ballot language — fee may be added to general tax levy bills.

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

SECTION A. ENACTING CLAUSE. — Sections 247.060 and 247.080, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 247.060, 247.080, and 249.424, to read as follows:

247.060. BOARD OF DIRECTORS — POWERS, QUALIFICATIONS, APPOINTMENT, TERMS, VACANCIES, HOW FILLED — ELECTIONS HELD, WHEN, PROCEDURE — ATTENDANCE FEE — SUSPENSION OF MEMBERS, WHEN. — 1. The management of the business and affairs of the district is hereby vested in a board of directors, who shall have all the powers conferred upon the district except as herein otherwise provided. It shall be composed of five members, each of whom shall be a voter of the district and shall have resided in said district one whole year immediately prior to his **or her** election**[**, or if not a voter or resident of said district, shall have received service from the district at his or her primary place of residence one whole year immediately prior to his or her election**]**. A member shall be at least twenty-five years of age and shall not be delinquent in the payment of taxes at the time of his election. Except as provided in subsection 2 of this section, the term of office of a member of the board shall be three years. The remaining members of the board shall appoint a qualified person to fill any vacancy on the board. If no qualified person who lives in the subdistrict for which there is a vacancy is willing to serve on the board, the board may appoint an otherwise qualified person who lives in the district but not in the subdistrict in which the vacancy exists to fill such vacancy.

2. After notification by certified mail that he or she has two consecutive unexcused absences, any member of the board failing to attend the meetings of the board for three consecutive regular meetings, unless excused by the board for reasons satisfactory to the board, shall be deemed to have vacated the seat, and the secretary of the board shall certify that fact to the board. The vacancy shall be filled as other vacancies occurring in the board.

3. The initial members of the board shall be appointed by the circuit court and one shall serve until the immediately following first Tuesday after the first Monday in April, two shall serve until the first Tuesday after the first Monday in April on the second year following their appointment and the remaining appointees shall serve until the first Tuesday after the first Monday in April on the third year following their appointment. On the expiration of such terms and on the expiration of any subsequent term, elections shall be held as otherwise provided by law, and such elections shall be held in April pursuant to section 247.180.

4. In 2008, 2009, and 2010, directors elected in such years shall serve from the first Tuesday after the first Monday in June until the first Tuesday in April of the third year following the year of their election. All directors elected thereafter shall serve from the first Tuesday in April until the first Tuesday in April of the third year following the year of their election.

5. Each member of the board may receive an attendance fee not to exceed one hundred dollars for attending each regularly called board meeting, or special meeting, but shall not be paid for attending more than two meetings in any calendar month, except that in a county of the first classification, a member shall not be paid for attending more than four meetings in any calendar month. However, no board member shall be paid more than one attendance fee if such member attends more than one board meeting in a calendar week. In addition, the president of the board of directors may receive fifty dollars for attending each regularly or specially called board meeting, but shall not be paid the additional fee for attending more than two meetings in any calendar month. Each member of the board shall be reimbursed for his or her actual expenditures in the performance of his or her duties on behalf of the district.

6. In no event, however, shall a board member receive any attendance fees or additional compensation authorized in subsection 5 of this section until after such board member has completed a minimum of six hours training regarding the responsibilities of the board and its members concerning the basics of water treatment and distribution, budgeting and rates, water utility planning, the funding of capital improvements, the understanding of water utility financial statements, the Missouri sunshine law, and this chapter.

7. The circuit court of the county having jurisdiction over the district shall have jurisdiction over the members of the board of directors to suspend any member from exercising his or her office, whensoever it appears that he or she has abused his or her trust or become disqualified; to remove any member upon proof or conviction of gross misconduct or disqualification for his or her office; or to restrain and prevent any alienation of property of the district by members, in cases where it is threatened, or there is good reason to apprehend that it is intended to be made in fraud of the rights and interests of the district.

8. The jurisdiction conferred by this section shall be exercised as in ordinary cases upon petition, filed by or at the instance of any member of the board, or at the instance of any ten voters residing in the district who join in the petition, verified by the affidavit of at least one of them. The petition shall be heard in a summary manner after ten days' notice in writing to the member or officer complained of. An appeal shall lie from the judgment of the circuit court as in other causes, and shall be speedily determined; but an appeal does not operate under any condition as a supersedeas of a judgment of suspension or removal from office.

247.080. BOARD — FURTHER POWERS. — 1. The exercise of the powers conferred upon the district by sections 247.010 to 247.220 shall be by its board of directors, acting as a board.

2. The board shall have power and it shall be its duty to employ necessary help and to contract for such professional service as the demands of the district require in creating and operating a waterworks system contemplated in this law, and shall pay out of the funds of the

district available for such purposes reasonable compensation for the service rendered. It shall have made by a competent accountant an annual audit of the receipts and expenditures of the district. All persons employed shall serve for an indefinite term and at the will of the board, and party politics shall not enter into the selection of employees.

3. The board shall have regular monthly meetings and the president thereof may call special meetings as occasion requires. It shall establish an office for its meeting place and for the transaction of business.

4. All persons charged with handling of funds shall be required to give bond to be fixed and approved by the board, but at the expense of the district.

5. All contracts made by the district shall conform to **[**law**]** **section 432.070** governing contracts **[**of other municipal corporations**]**. It shall have power to authorize and enter into all contracts in behalf of the district, and shall provide an official seal for district, and all official documents shall be attested by the seal.

249.424. LATERAL SERVER LINE REPAIR, ANNUAL FEE AUTHORIZED — SUBMITTED TO VOTERS, BALLOT LANGUAGE — FEE MAY BE ADDED TO GENERAL TAX LEVY BILLS. — 1. If approved by a majority of the voters voting on the proposal, and upon the adoption of a resolution by a majority of the sewer district's board of trustees, any sewer district established and organized under this chapter, may levy and impose annually a fee not to exceed thirty-six dollars per year within its boundaries for the repair of lateral sewer service lines on or connecting residential property having six or fewer dwelling units, except that the fee shall not be imposed on property in the sewer district that is located within any city, town, village, or unincorporated area of a county that already imposes a fee under section 249.422. Any sewer district that establishes or increases the fee used to repair any portion of the lateral sewer service line shall include all defective portions of the lateral sewer service line from the residential structure to its connection with the public sewer system line. Notwithstanding any provision of chapter 448, the fee imposed pursuant to this chapter shall be imposed upon condominiums that have six or fewer condominium units per building and each condominium unit shall be responsible for its proportionate share of any fee charged pursuant to this chapter, and in addition, any condominium unit shall, if determined to be responsible for and served by its own individual lateral sewer line, be treated as an individual residence regardless of the number of units in the development. It shall be the responsibility of the condominium owner or condominium association to notify the sewer district that they are not properly classified as provided in this section.

2. The question shall be submitted to the registered voters who reside within the boundaries of the sewer district, excluding any voters who live within the boundaries of any city, town, village, or unincorporated area of a county that already imposes a fee under section 249.422. The question shall be submitted in substantially the following form:

Shall a maximum charge not to exceed thirty-six dollars be assessed annually on residential property for each lateral sewer service line serving six or fewer dwelling units on that property and condominiums that have six or fewer condominium units per building and any condominium responsible for its own individual lateral sewer line to provide funds to pay the cost of certain repairs of those lateral sewer service lines which may be billed quarterly or annually?

☐ YES ☐ NO

3. If a majority of the voters voting thereon approve the proposal provided for in subsection 2 of this section, any sewer district established and organized under this chapter may, upon the adoption of a resolution by a majority of the sewer district's board of trustees, collect and administer such fee in order to protect the public health, welfare, peace, and safety. The funds collected shall be deposited in a special account to be used

solely for the purpose of paying for all or a portion of the costs reasonably associated with and necessary to administer and carry out the defective lateral sewer service line repairs. All interest generated on deposited funds shall be accrued to the special account established for the repair of lateral sewer service lines.

4. The collector in any county containing a sewer district that adopts a resolution under this section to collect a fee for the repair of lateral sewer service lines may add such fee to the general tax levy bills of property owners within the boundaries of the sewer district, excluding property located in any city, town, village, or unincorporated area of the county that already imposes a fee under section 249.422. All revenues received on such combined bill for the purpose of providing for the repair of lateral sewer service lines shall be separated from all other revenues so collected and credited to the special account established by the sewer district under subsection 3 of this section.

5. If a city, town, village, or county, which is within the sewer district and imposed a fee under section 249.422, later rescinds such fee after voters authorized the fee provided under this section, the sewer district may submit the question provided under subsection 2 of this section to the registered voters of such city, town, village, or county that have property within the boundaries of the sewer district. If a majority of voters voting on the proposal approve, the sewer district may levy and impose the fee as provided under this section on property within such city, town, village, or county.

Approved June 23, 2014

HB 1693 [HB 1693]

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

Changes the laws regarding unclaimed property

AN ACT to repeal sections 447.560 and 447.584, RSMo, and to enact in lieu thereof three new sections relating to unclaimed property, with a penalty provision and an emergency clause.

SECTION

A. Enacting clause.
447.534. United States savings bonds deemed abandoned, when — proceeds to escheat to the state, when — filing of a claim, procedure.
447.560. Record of property, content — retained for public inspection — information not public record, when — public record, when — penalty for disclosure — military medals, procedure — United States savings bonds, procedure.
447.584. Agreements — property held by business entities in other states or governmental entities — treasurer, duties — fees.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Sections 447.560 and 447.584, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 447.534, 447.560, and 447.584, to read as follows:

447.534. UNITED STATES SAVINGS BONDS DEEMED ABANDONED, WHEN — PROCEEDS TO ESCHEAT TO THE STATE, WHEN — FILING OF A CLAIM, PROCEDURE. — 1. Notwithstanding the provisions of subsection 2 of section 447.532, section 447.533, and subsection 1 of section 447.545, United States savings bonds, which are unclaimed property and subject to the provisions of sections 447.500 to 447.595 shall be deemed

abandoned when they have remained unclaimed for more than three years after their date of maturity and such bonds and the proceeds from such bonds, including all principal and interest due, in the possession of the treasurer or with an owner whose last known address is located in Missouri shall escheat to the state of Missouri three years after becoming unclaimed property by virtue of the provisions of sections 447.500 to 447.595 and all property rights and legal title to and ownership of such United States savings bonds and the proceeds from such bonds, including all rights, powers, and privileges of survivorship of any owner, co-owner, or beneficiary, shall vest solely in the state of Missouri according to the procedure set forth in subsections (1) through (3):

(1) After one hundred eighty days following the second three year period referenced in section 1, if no claim has been approved in accordance with the provisions of section 447.562 for such United States savings bonds or proceeds from such bonds, the treasurer shall commence a civil action in the circuit court of Cole county for a determination that such United States savings bonds and the proceeds from such bonds shall escheat to the state of Missouri. The treasurer may postpone the bringing of such action until sufficient United States savings bonds have accumulated in the treasurer's custody to justify the expense of such proceedings.

(2) If no person shall file a claim or appear at the hearing to substantiate a claim or where the court determines that a claimant is not entitled to the United States savings bonds or proceeds from such bonds claimed by such claimant, then the court, if satisfied by evidence that the treasurer has substantially complied with the laws of the state of Missouri, shall enter a judgment that the subject United States savings bonds and the proceeds from such bonds have escheated to the state of Missouri, and all property rights and legal title to and ownership of such United States savings bonds and the proceeds from such bonds, including all rights, powers, and privileges of survivorship of any owner, co-owner, or beneficiary, shall vest solely in the state of Missouri.

(3) The treasurer shall redeem such United States savings bonds escheated to the state of Missouri and the proceeds from such redemption of United States savings bonds shall be deposited in the abandoned fund account created by section 447.543.

2. Any person making a claim for the United States savings bonds escheated to the state of Missouri, or for the proceeds from such bonds, may file a claim in accordance with the provisions of section 447.562. Upon providing sufficient proof of the validity of such person's claim, the treasurer may pay such claim in accordance with the provisions of section 447.565.

447.560. RECORD OF PROPERTY, CONTENT — RETAINED FOR PUBLIC INSPECTION — INFORMATION NOT PUBLIC RECORD, WHEN — PUBLIC RECORD, WHEN — PENALTY FOR DISCLOSURE — MILITARY MEDALS, PROCEDURE — UNITED STATES SAVINGS BONDS, PROCEDURE. — 1. The treasurer shall retain a record of the name and last known address of each person appearing from the holders' reports to be entitled to the abandoned moneys and property and of the name and last known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of a life insurance corporation, its number, the name of the corporation, and the amount due. The record shall be available for public inspection at all reasonable business hours.

2. Except as specifically provided by this section, no information furnished to the treasurer in the holder reports, including Social Security numbers or other identifying information, shall be open to public inspection or made public. Any officer, employee or agent of the treasurer who, in violation of the provisions of this section, divulges, discloses or permits the inspection of such information shall be guilty of a misdemeanor.

3. If an amount is turned over to the state that is less than fifty dollars, the amount reported may be made available as public information, along with the name and last known address of the person appearing from the holder report to be entitled to the abandoned moneys; except that,

no additional information other than provided for in this section may be released, and any individual other than the person appearing from the holder report to be entitled to the abandoned moneys shall be governed by sections 447.500 to 447.595 and other applicable Missouri law in his or her use or dissemination of such information.

4. If the abandoned property is a military medal, the treasurer is authorized to make any information, other than Social Security numbers, contained in the holder report and record under subsection 1 of this section, and any photograph or other visual depiction of the military medal available to the public in order to facilitate the identification of the original owner or such owner's respective heirs or beneficiaries as described under subdivision (4) of section 447.559.

5. The treasurer shall retain a record of the name and, if known, the last known address of each person named on the United States savings bonds which have escheated to the state of Missouri and which have been redeemed by the treasurer under section 447.534. The record shall be made public and available for public inspection at all reasonable business hours. In addition, if a United States savings bond is redeemed in an amount that is less than fifty dollars, the amount redeemed may be made available as public information. No other information furnished to the treasurer in regard to such United States savings bonds, including Social Security numbers or other identifying information shall be open to public inspection or made public. Any officer, employee or agent of the treasurer who, in violation of the provisions of this section, divulges, discloses, or permits the inspection of such information shall be guilty of a misdemeanor.

447.584. AGREEMENTS — PROPERTY HELD BY BUSINESS ENTITIES IN OTHER STATES OR GOVERNMENTAL ENTITIES — TREASURER, DUTIES — FEES. — The treasurer, with the approval of the governor, may enter into agreements with any person, firm or corporation to assist in the identification, collection, and processing of abandoned **or escheated** property held by any business entity domiciled and located in another state **or any governmental entity**. The treasurer may agree to pay a fee for such services based in whole or in part on a percentage of the value of any property received pursuant to such agreements. Any expenses paid pursuant to this section may not be deducted from the amount subject to claim **[**by the owner**]** under sections 447.500 to 447.595.

SECTION B. EMERGENCY CLAUSE. — Because of the need to protect the interests of the state, this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and this act shall be in full force and effect upon its passage and approval.

Approved June 27, 2014

HB 1710 [HCS HB 1710]

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

Establishes the Missouri National Guard Foundation Fund and authorizes a designation of tax refunds to the fund

AN ACT to amend chapter 143, RSMo, by adding thereto one new section relating to refund donations to the Missouri national guard foundation fund.

SECTION
A. Enacting clause.

143.1027. Missouri National Guard Foundation Fund, tax refund contribution may be designated — fund created — director's duties.

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

SECTION A. ENACTING CLAUSE. — Chapter 143, RSMo, is amended by adding thereto one new section, to be known as section 143.1027, to read as follows:

143.1027. MISSOURI NATIONAL GUARD FOUNDATION FUND, TAX REFUND CONTRIBUTION MAY BE DESIGNATED — FUND CREATED — DIRECTOR'S DUTIES. — 1. For all taxable years beginning on or after January 1, 2014, each individual or corporation entitled to a tax refund in an amount sufficient to make a designation under this section may designate that one dollar or any amount in excess of one dollar on a single return, and two dollars or any amount in excess of two dollars on a combined return, of the refund due be credited to the Missouri national guard foundation fund. If any individual or corporation that is not entitled to a tax refund in an amount sufficient to make a designation under this section wishes to make a contribution to the fund, such individual or corporation may, by separate check, draft, or other negotiable instrument, send in with the payment of taxes, or may send in separately, that amount the individual or corporation wishes to contribute. Such amounts shall be clearly designated for the fund.

2. There is hereby created in the state treasury the "Missouri National Guard Foundation Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund and, upon appropriation, money in the fund shall be used solely for the administration of this section. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund. The treasurer shall distribute all moneys deposited in the fund at least monthly to the Missouri National Guard Foundation.

3. The director of revenue shall deposit at least monthly all contributions designated by individuals under this section to the state treasurer for deposit to the fund. The director of revenue shall deposit at least monthly all contributions designated by the corporations under this section, less an amount sufficient to cover the costs of collection and handling by the department of revenue, to the state treasury for deposit to the fund. A contribution designated under this section shall only be deposited in the fund after all other claims against the refund from which such contribution is to be made have been satisfied.

4. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset on December thirty-first six years after August 28, 2014, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset on December thirty-first twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

Approved July 10, 2014

HB 1724 [HB 1724]

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

Allows the Adjutant General to provide financial assistance or services from the Missouri Military Family Relief Fund to families or members of the Armed Forces of the United States or a member of the Missouri

AN ACT to repeal section 41.216, RSMo, and to enact in lieu thereof one new section relating to the Missouri military family relief fund.

SECTION
A. Enacting clause.
41.216. Grants and financial assistance from the Missouri military family relief fund, who may authorize — rulemaking authority.

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

SECTION A. ENACTING CLAUSE. — Section 41.216, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 41.216, to read as follows:

41.216. GRANTS AND FINANCIAL ASSISTANCE FROM THE MISSOURI MILITARY FAMILY RELIEF FUND, WHO MAY AUTHORIZE — RULEMAKING AUTHORITY. — 1. Subject to appropriation and upon the recommendation of a panel consisting of a sergeant major of the Missouri National Guard, a sergeant major of a reserve component or its equivalent, and a representative of the Missouri veterans commission who shall establish criteria for the grants by the promulgation of rules and regulations, the adjutant general shall have the power to make grants **or provide other financial assistance or services** from the Missouri military family relief fund to families of persons who are members of the Missouri National Guard or Missouri residents who are members of the reserves of the Armed Forces of the United States **[**and who have been called to active duty as a result of the September 11, 2001, terrorist attacks**]**.

2. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

Approved July 3, 2014

HB 1735 [SS SCS HCS HBs 1735 & 1618]

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

Allows for the sale of motorcycles on Sundays in Platte County and Jackson County

AN ACT to repeal sections 301.010, 301.700, and 578.120, RSMo, and to enact in lieu thereof three new sections relating to ownership of certain vehicles, with existing penalty provisions.

SECTION
A. Enacting clause.
301.010. Definitions.
301.700. Titling, transfer of all-terrain vehicle, how — fees, deposited in general revenue fund.
578.120. Sale of motor vehicles on Sunday prohibited, exceptions — encouragement by certain associations to remain closed on Sundays not a violation of antitrust laws — violations, penalty.

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

SECTION A. ENACTING CLAUSE. — Sections 301.010, 301.700, and 578.120, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 301.010, 301.700, and 578.120, to read as follows:

301.010. DEFINITIONS. — As used in this chapter and sections 304.010 to 304.040, 304.120 to 304.260, and sections 307.010 to 307.175, the following terms mean:

(1) "All-terrain vehicle", any motorized vehicle manufactured and used exclusively for off-highway use which is fifty inches or less in width, with an unladen dry weight of one thousand five hundred pounds or less, traveling on three, four or more nonhighway tires**[**, with a seat designed to be straddled by the operator, or with a seat designed to carry more than one person, and handlebars for steering control**]**;

(2) "Automobile transporter", any vehicle combination designed and used specifically for the transport of assembled motor vehicles;

(3) "Axle load", the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes forty inches apart, extending across the full width of the vehicle;

(4) "Boat transporter", any vehicle combination designed and used specifically to transport assembled boats and boat hulls;

(5) "Body shop", a business that repairs physical damage on motor vehicles that are not owned by the shop or its officers or employees by mending, straightening, replacing body parts, or painting;

(6) "Bus", a motor vehicle primarily for the transportation of a driver and eight or more passengers but not including shuttle buses;

(7) "Commercial motor vehicle", a motor vehicle designed or regularly used for carrying freight and merchandise, or more than eight passengers but not including vanpools or shuttle buses;

(8) "Cotton trailer", a trailer designed and used exclusively for transporting cotton at speeds less than forty miles per hour from field to field or from field to market and return;

(9) "Dealer", any person, firm, corporation, association, agent or subagent engaged in the sale or exchange of new, used or reconstructed motor vehicles or trailers;

(10) "Director" or "director of revenue", the director of the department of revenue;

(11) "Driveaway operation":

(a) The movement of a motor vehicle or trailer by any person or motor carrier other than a dealer over any public highway, under its own power singly, or in a fixed combination of two or more vehicles, for the purpose of delivery for sale or for delivery either before or after sale;

(b) The movement of any vehicle or vehicles, not owned by the transporter, constituting the commodity being transported, by a person engaged in the business of furnishing drivers and operators for the purpose of transporting vehicles in transit from one place to another by the driveaway or towaway methods; or

(c) The movement of a motor vehicle by any person who is lawfully engaged in the business of transporting or delivering vehicles that are not the person's own and vehicles of a type otherwise required to be registered, by the driveaway or towaway methods, from a point of manufacture, assembly or distribution or from the owner of the vehicles to a dealer or sales agent of a manufacturer or to any consignee designated by the shipper or consignor;

(12) "Dromedary", a box, deck, or plate mounted behind the cab and forward of the fifth wheel on the frame of the power unit of a truck tractor-semitrailer combination. A truck tractor equipped with a dromedary may carry part of a load when operating independently or in a combination with a semitrailer;

(13) "Farm tractor", a tractor used exclusively for agricultural purposes;

(14) "Fleet", any group of ten or more motor vehicles owned by the same owner;

(15) "Fleet vehicle", a motor vehicle which is included as part of a fleet;

(16) "Fullmount", a vehicle mounted completely on the frame of either the first or last vehicle in a saddlemount combination;

(17) "Gross weight", the weight of vehicle and/or vehicle combination without load, plus the weight of any load thereon;

(18) "Hail-damaged vehicle", any vehicle, the body of which has become dented as the result of the impact of hail;

(19) "Highway", any public thoroughfare for vehicles, including state roads, county roads and public streets, avenues, boulevards, parkways or alleys in any municipality;

(20) "Improved highway", a highway which has been paved with gravel, macadam, concrete, brick or asphalt, or surfaced in such a manner that it shall have a hard, smooth surface;

(21) "Intersecting highway", any highway which joins another, whether or not it crosses the same;

(22) "Junk vehicle", a vehicle which is incapable of operation or use upon the highways and has no resale value except as a source of parts or scrap, and shall not be titled or registered;

(23) "Kit vehicle", a motor vehicle assembled by a person other than a generally recognized manufacturer of motor vehicles by the use of a glider kit or replica purchased from an authorized manufacturer and accompanied by a manufacturer's statement of origin;

(24) "Land improvement contractors' commercial motor vehicle", any not-for-hire commercial motor vehicle the operation of which is confined to:

(a) An area that extends not more than a radius of one hundred miles from its home base of operations when transporting its owner's machinery, equipment, or auxiliary supplies to or from projects involving soil and water conservation, or to and from equipment dealers' maintenance facilities for maintenance purposes; or

(b) An area that extends not more than a radius of fifty miles from its home base of operations when transporting its owner's machinery, equipment, or auxiliary supplies to or from projects not involving soil and water conservation. Nothing in this subdivision shall be construed to prevent any motor vehicle from being registered as a commercial motor vehicle or local commercial motor vehicle;

(25) "Local commercial motor vehicle", a commercial motor vehicle whose operations are confined solely to a municipality and that area extending not more than fifty miles therefrom, or a commercial motor vehicle whose property-carrying operations are confined solely to the transportation of property owned by any person who is the owner or operator of such vehicle to or from a farm owned by such person or under the person's control by virtue of a landlord and tenant lease; provided that any such property transported to any such farm is for use in the operation of such farm;

(26) "Local log truck", a commercial motor vehicle which is registered pursuant to this chapter to operate as a motor vehicle on the public highways of this state, used exclusively in this state, used to transport harvested forest products, operated solely at a forested site and in an area extending not more than a one hundred-mile radius from such site, carries a load with dimensions not in excess of twenty-five cubic yards per two axles with dual wheels, and when operated on the national system of interstate and defense highways described in Title 23, Section 103(e) of the United States Code, such vehicle shall not exceed the weight limits of section 304.180, does not have more than four axles, and does not pull a trailer which has more than two axles. Harvesting equipment which is used specifically for cutting, felling, trimming, delimbing, debarking, chipping, skidding, loading, unloading, and stacking may be transported on a local

log truck. A local log truck may not exceed the limits required by law, however, if the truck does exceed such limits as determined by the inspecting officer, then notwithstanding any other provisions of law to the contrary, such truck shall be subject to the weight limits required by such sections as licensed for eighty thousand pounds;

(27) "Local log truck tractor", a commercial motor vehicle which is registered under this chapter to operate as a motor vehicle on the public highways of this state, used exclusively in this state, used to transport harvested forest products, operated solely at a forested site and in an area extending not more than a one hundred-mile radius from such site, operates with a weight not exceeding twenty-two thousand four hundred pounds on one axle or with a weight not exceeding forty-four thousand eight hundred pounds on any tandem axle, and when operated on the national system of interstate and defense highways described in Title 23, Section 103(e) of the United States Code, such vehicle does not exceed the weight limits contained in section 304.180, and does not have more than three axles and does not pull a trailer which has more than two axles. Violations of axle weight limitations shall be subject to the load limit penalty as described for in sections 304.180 to 304.220;

(28) "Local transit bus", a bus whose operations are confined wholly within a municipal corporation, or wholly within a municipal corporation and a commercial zone, as defined in section 390.020, adjacent thereto, forming a part of a public transportation system within such municipal corporation and such municipal corporation and adjacent commercial zone;

(29) "Log truck", a vehicle which is not a local log truck or local log truck tractor and is used exclusively to transport harvested forest products to and from forested sites which is registered pursuant to this chapter to operate as a motor vehicle on the public highways of this state for the transportation of harvested forest products;

(30) "Major component parts", the rear clip, cowl, frame, body, cab, front-end assembly, and front clip, as those terms are defined by the director of revenue pursuant to rules and regulations or by illustrations;

(31) "Manufacturer", any person, firm, corporation or association engaged in the business of manufacturing or assembling motor vehicles, trailers or vessels for sale;

(32) "Motor change vehicle", a vehicle manufactured prior to August, 1957, which receives a new, rebuilt or used engine, and which used the number stamped on the original engine as the vehicle identification number;

(33) "Motor vehicle", any self-propelled vehicle not operated exclusively upon tracks, except farm tractors;

(34) "Motor vehicle primarily for business use", any vehicle other than a recreational motor vehicle, motorcycle, motortricycle, or any commercial motor vehicle licensed for over twelve thousand pounds:

(a) Offered for hire or lease; or

(b) The owner of which also owns ten or more such motor vehicles;

(35) "Motorcycle", a motor vehicle operated on two wheels;

(36) "Motorized bicycle", any two-wheeled or three-wheeled device having an automatic transmission and a motor with a cylinder capacity of not more than fifty cubic centimeters, which produces less than three gross brake horsepower, and is capable of propelling the device at a maximum speed of not more than thirty miles per hour on level ground;

(37) "Motortricycle", a motor vehicle operated on three wheels, including a motorcycle while operated with any conveyance, temporary or otherwise, requiring the use of a third wheel. A motortricycle shall not be included in the definition of all-terrain vehicle;

(38) "Municipality", any city, town or village, whether incorporated or not;

(39) "Nonresident", a resident of a state or country other than the state of Missouri;

(40) "Non-USA-std motor vehicle", a motor vehicle not originally manufactured in compliance with United States emissions or safety standards;

(41) "Operator", any person who operates or drives a motor vehicle;

(42) "Owner", any person, firm, corporation or association, who holds the legal title to a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease

thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this law;

(43) "Public garage", a place of business where motor vehicles are housed, stored, repaired, reconstructed or repainted for persons other than the owners or operators of such place of business;

(44) "Rebuilder", a business that repairs or rebuilds motor vehicles owned by the rebuilder, but does not include certificated common or contract carriers of persons or property;

(45) "Reconstructed motor vehicle", a vehicle that is altered from its original construction by the addition or substitution of two or more new or used major component parts, excluding motor vehicles made from all new parts, and new multistage manufactured vehicles;

(46) "Recreational motor vehicle", any motor vehicle designed, constructed or substantially modified so that it may be used and is used for the purposes of temporary housing quarters, including therein sleeping and eating facilities which are either permanently attached to the motor vehicle or attached to a unit which is securely attached to the motor vehicle. Nothing herein shall prevent any motor vehicle from being registered as a commercial motor vehicle if the motor vehicle could otherwise be so registered;

(47) "Recreational off-highway vehicle", any motorized vehicle manufactured and used exclusively for off-highway use which is **[**sixty-four**]** **more than fifty** inches **[**or less**]** **but no more than sixty-seven inches** in width, with an unladen dry weight of two thousand pounds or less, traveling on four or more nonhighway tires**[**, with a nonstraddle seat, and steering wheel,**]** **and** which may have access to ATV trails;

(48) "Rollback or car carrier", any vehicle specifically designed to transport wrecked, disabled or otherwise inoperable vehicles, when the transportation is directly connected to a wrecker or towing service;

(49) "Saddlemount combination", a combination of vehicles in which a truck or truck tractor tows one or more trucks or truck tractors, each connected by a saddle to the frame or fifth wheel of the vehicle in front of it. The "saddle" is a mechanism that connects the front axle of the towed vehicle to the frame or fifth wheel of the vehicle in front and functions like a fifth wheel kingpin connection. When two vehicles are towed in this manner the combination is called a "double saddlemount combination". When three vehicles are towed in this manner, the combination is called a "triple saddlemount combination";

(50) "Salvage dealer and dismantler", a business that dismantles used motor vehicles for the sale of the parts thereof, and buys and sells used motor vehicle parts and accessories;

(51) "Salvage vehicle", a motor vehicle, semitrailer, or house trailer which:

(a) Was damaged during a year that is no more than six years after the manufacturer's model year designation for such vehicle to the extent that the total cost of repairs to rebuild or reconstruct the vehicle to its condition immediately before it was damaged for legal operation on the roads or highways exceeds eighty percent of the fair market value of the vehicle immediately preceding the time it was damaged;

(b) By reason of condition or circumstance, has been declared salvage, either by its owner, or by a person, firm, corporation, or other legal entity exercising the right of security interest in it;

(c) Has been declared salvage by an insurance company as a result of settlement of a claim;

(d) Ownership of which is evidenced by a salvage title; or

(e) Is abandoned property which is titled pursuant to section 304.155 or section 304.157 and designated with the words "salvage/abandoned property". The total cost of repairs to rebuild or reconstruct the vehicle shall not include the cost of repairing, replacing, or reinstalling inflatable safety restraints, tires, sound systems, or damage as a result of hail, or any sales tax on parts or materials to rebuild or reconstruct the vehicle. For purposes of this definition, "fair market value" means the retail value of a motor vehicle as:

a. Set forth in a current edition of any nationally recognized compilation of retail values, including automated databases, or from publications commonly used by the automotive and insurance industries to establish the values of motor vehicles;

b. Determined pursuant to a market survey of comparable vehicles with regard to condition and equipment; and

c. Determined by an insurance company using any other procedure recognized by the insurance industry, including market surveys, that is applied by the company in a uniform manner;

(52) "School bus", any motor vehicle used solely to transport students to or from school or to transport students to or from any place for educational purposes;

(53) "Scrap processor", a business that, through the use of fixed or mobile equipment, flattens, crushes, or otherwise accepts motor vehicles and vehicle parts for processing or transportation to a shredder or scrap metal operator for recycling;

(54) "Shuttle bus", a motor vehicle used or maintained by any person, firm, or corporation as an incidental service to transport patrons or customers of the regular business of such person, firm, or corporation to and from the place of business of the person, firm, or corporation providing the service at no fee or charge. Shuttle buses shall not be registered as buses or as commercial motor vehicles;

(55) "Special mobile equipment", every self-propelled vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including farm equipment, implements of husbandry, road construction or maintenance machinery, ditch-digging apparatus, stone crushers, air compressors, power shovels, cranes, graders, rollers, well-drillers and wood-sawing equipment used for hire, asphalt spreaders, bituminous mixers, bucket loaders, ditchers, leveling graders, finished machines, motor graders, road rollers, scarifiers, earth-moving carryalls, scrapers, drag lines, concrete pump trucks, rock-drilling and earth-moving equipment. This enumeration shall be deemed partial and shall not operate to exclude other such vehicles which are within the general terms of this section;

(56) "Specially constructed motor vehicle", a motor vehicle which shall not have been originally constructed under a distinctive name, make, model or type by a manufacturer of motor vehicles. The term specially constructed motor vehicle includes kit vehicles;

(57) "Stinger-steered combination", a truck tractor-semitrailer wherein the fifth wheel is located on a drop frame located behind and below the rearmost axle of the power unit;

(58) "Tandem axle", a group of two or more axles, arranged one behind another, the distance between the extremes of which is more than forty inches and not more than ninety-six inches apart;

(59) "Tractor", "truck tractor" or "truck-tractor", a self-propelled motor vehicle designed for drawing other vehicles, but not for the carriage of any load when operating independently. When attached to a semitrailer, it supports a part of the weight thereof;

(60) "Trailer", any vehicle without motive power designed for carrying property or passengers on its own structure and for being drawn by a self-propelled vehicle, except those running exclusively on tracks, including a semitrailer or vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its own weight rests upon and is carried by the towing vehicle. The term "trailer" shall not include cotton trailers as defined in subdivision (8) of this section and shall not include manufactured homes as defined in section 700.010;

(61) "Truck", a motor vehicle designed, used, or maintained for the transportation of property;

(62) "Truck-tractor semitrailer-semitrailer", a combination vehicle in which the two trailing units are connected with a B-train assembly which is a rigid frame extension attached to the rear frame of a first semitrailer which allows for a fifth-wheel connection point for the second semitrailer and has one less articulation point than the conventional A-dolly connected truck-tractor semitrailer-trailer combination;

(63) "Truck-trailer boat transporter combination", a boat transporter combination consisting of a straight truck towing a trailer using typically a ball and socket connection with the trailer axle located substantially at the trailer center of gravity rather than the rear of the trailer but so as to maintain a downward force on the trailer tongue;

(64) "Used parts dealer", a business that buys and sells used motor vehicle parts or accessories, but not including a business that sells only new, remanufactured or rebuilt parts. "Business" does not include isolated sales at a swap meet of less than three days;

(65) "Utility vehicle", any motorized vehicle manufactured and used exclusively for off-highway use which is **[**sixty-three**] more than fifty** inches **[**or less**] but no more than sixty-seven inches** in width, with an unladen dry weight of **[**one**] two** thousand **[**eight hundred fifty**]** pounds or less, traveling on four or six wheels, to be used primarily for landscaping, lawn care, or maintenance purposes;

(66) "Vanpool", any van or other motor vehicle used or maintained by any person, group, firm, corporation, association, city, county or state agency, or any member thereof, for the transportation of not less than eight nor more than forty-eight employees, per motor vehicle, to and from their place of employment; however, a vanpool shall not be included in the definition of the term bus or commercial motor vehicle as defined by subdivisions (6) and (7) of this section, nor shall a vanpool driver be deemed a chauffeur as that term is defined by section 303.020; nor shall use of a vanpool vehicle for ride-sharing arrangements, recreational, personal, or maintenance uses constitute an unlicensed use of the motor vehicle, unless used for monetary profit other than for use in a ride-sharing arrangement;

(67) "Vehicle", any mechanical device on wheels, designed primarily for use, or used, on highways, except motorized bicycles, vehicles propelled or drawn by horses or human power, or vehicles used exclusively on fixed rails or tracks, or cotton trailers or motorized wheelchairs operated by handicapped persons;

(68) "Wrecker" or "tow truck", any emergency commercial vehicle equipped, designed and used to assist or render aid and transport or tow disabled or wrecked vehicles from a highway, road, street or highway rights-of-way to a point of storage or repair, including towing a replacement vehicle to replace a disabled or wrecked vehicle;

(69) "Wrecker or towing service", the act of transporting, towing or recovering with a wrecker, tow truck, rollback or car carrier any vehicle not owned by the operator of the wrecker, tow truck, rollback or car carrier for which the operator directly or indirectly receives compensation or other personal gain.

301.700. TITLING, TRANSFER OF ALL-TERRAIN VEHICLE, HOW — FEES, DEPOSITED IN GENERAL REVENUE FUND. — All-terrain vehicles shall be treated in the same manner as motor vehicles, pursuant to this chapter, for the purposes of transfer, titling, perfection of liens and encumbrances, and the collection of all taxes, fees and other charges. Funds collected by the department of revenue pursuant to sections 301.700 to 301.714 shall be deposited by the director in the state treasury to the credit of the general revenue fund. **An applicant that purchases a used all-terrain vehicle after August 28, 2014, that was defined as a utility or recreation off-highway vehicle prior to August 28, 2014, may present a notarized bill of sale as evidence of lawful ownership when a certificate of title has not been issued for such all-terrain vehicle.**

578.120. SALE OF MOTOR VEHICLES ON SUNDAY PROHIBITED, EXCEPTIONS — ENCOURAGEMENT BY CERTAIN ASSOCIATIONS TO REMAIN CLOSED ON SUNDAYS NOT A VIOLATION OF ANTITRUST LAWS — VIOLATIONS, PENALTY. — 1. Notwithstanding any provision in this chapter to the contrary, no dealer, distributor or manufacturer licensed under section 301.559 may keep open, operate, or assist in keeping open or operating any established place of business for the purpose of buying, selling, bartering or exchanging, or offering for sale, barter or exchange, any motor vehicle, whether new or used, on Sunday. However, this section

does not apply to the sale of manufactured housing; the sale of recreational motor vehicles; **the sale of motorcycles as that term is defined in section 301.010; the sale of motortricycles, motorized bicycles, all-terrain vehicles, recreational off-highway vehicles, utility vehicles, personal watercraft, or other motorized vehicles customarily sold by powersports dealers licensed pursuant to sections 301.550 to 301.560;** washing, towing, wrecking or repairing operations; the sale of petroleum products, tires, and repair parts and accessories; or new vehicle shows or displays participated in by five or more franchised dealers or in towns or cities with five or fewer dealers, a majority.

2. No association consisting of motor vehicle dealers, distributors or manufacturers licensed under section 301.559 shall be in violation of antitrust or restraint of trade statutes under chapter 416 or regulation promulgated thereunder solely because it encourages its members not to open or operate on Sunday a place of business for the purpose of buying, selling, bartering or exchanging any motor vehicle.

3. Any person who violates the provisions of this section shall be guilty of a class C misdemeanor.

Approved June 23, 2014

HB 1779 [SCS HCS HB 1779]

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

Changes the laws regarding mental health facility safety

AN ACT to repeal section 630.175, RSMo, and to enact in lieu thereof one new section relating to mental health facility safety provisions.

SECTION

A. Enacting clause.

630.175. Physical and chemical restraints prohibited, exceptions — requirements for APRN determinations — security escort devices and certain extraordinary measures not considered physical restraint.

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

SECTION A. ENACTING CLAUSE. — Section 630.175, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 630.175, to read as follows:

630.175. PHYSICAL AND CHEMICAL RESTRAINTS PROHIBITED, EXCEPTIONS — REQUIREMENTS FOR APRN DETERMINATIONS — SECURITY ESCORT DEVICES AND CERTAIN EXTRAORDINARY MEASURES NOT CONSIDERED PHYSICAL RESTRAINT. — 1. No person admitted on a voluntary or involuntary basis to any mental health facility or mental health program in which people are civilly detained pursuant to chapter 632, and no patient, resident or client of a residential facility or day program operated, funded or licensed by the department shall be subject to physical or chemical restraint, isolation or seclusion unless it is determined by the head of the facility **[**or**],** the attending licensed physician**, or in the circumstances specifically set forth in this section, by an advanced practice registered nurse in a collaborative practice arrangement with the attending licensed physician** that the chosen intervention is imminently necessary to protect the health and safety of the patient, resident, client or others and that it provides the least restrictive environment. **An advanced practice registered nurse in a collaborative practice arrangement with the attending licensed physician may make a determination that the chosen intervention is necessary for patients,**

residents, or clients of facilities or programs operated by the department, in hospitals as defined in section 197.020 that only provide psychiatric care and in dedicated psychiatric units of general acute care hospitals as hospitals are defined in section 197.020. Any determination made by the advanced practice registered nurse shall be documented as required in subsection 2 of this section and reviewed in person by the attending licensed physician if the episode of restraint is to extend beyond:

(1) Four hours duration in the case of a person under eighteen years of age;

(2) Eight hours duration in the case of a person eighteen years of age or older; or

(3) For any total length of restraint lasting more than four hours duration in a twenty-four-hour period in the case of a person under eighteen years of age or beyond eight hours duration in the case of a person eighteen years of age or older in a twenty-four-hour period.

The review shall occur prior to the time limit specified under subsection 6 of this section and shall be documented by the licensed physician under subsection 2 of this section.

2. Every use of physical or chemical restraint, isolation or seclusion and the reasons therefor shall be made a part of the clinical record of the patient, resident or client under the signature of the head of the facility**,** or the attending licensed physician**, or the advanced practice registered nurse in a collaborative practice arrangement with the attending licensed physician**.

3. Physical or chemical restraint, isolation or seclusion shall not be considered standard treatment or habilitation and shall cease as soon as the circumstances causing the need for such action have ended.

4. The use of security escort devices, including devices designed to restrict physical movement, which are used to maintain safety and security and to prevent escape during transport outside of a facility shall not be considered physical restraint within the meaning of this section. Individuals who have been civilly detained under sections 632.300 to 632.475 may be placed in security escort devices when transported outside of the facility if it is determined by the head of the facility**,** or the attending licensed physician**, or the advanced practice registered nurse in a collaborative practice arrangement with the attending licensed physician** that the use of security escort devices is necessary to protect the health and safety of the patient, resident, client, or other persons or is necessary to prevent escape. Individuals who have been civilly detained under sections 632.480 to 632.513 or committed under chapter 552 shall be placed in security escort devices when transported outside of the facility unless it is determined by the head of the facility**,** or the attending licensed physician**, or the advanced practice registered nurse in a collaborative practice arrangement with the attending licensed physician** that security escort devices are not necessary to protect the health and safety of the patient, resident, client, or other persons or is not necessary to prevent escape.

5. Extraordinary measures employed by the head of the facility to ensure the safety and security of patients, residents, clients, and other persons during times of natural or man-made disasters shall not be considered restraint, isolation, or seclusion within the meaning of this section.

6. Orders issued under this section by the advanced practice registered nurse in a collaborative practice arrangement with the attending licensed physician shall be reviewed in person by the attending licensed physician of the facility within twenty-four hours or the next regular working day of the order being issued, and such review shall be documented in the clinical record of the patient, resident, or client.

7. For purposes of this subsection, "division" shall mean the division of developmental disabilities. Restraint or seclusion shall not be used in habilitation centers or community programs that serve persons with developmental disabilities that are operated or funded by the division unless such procedure is part of an emergency intervention system approved by the division and is identified in such person's individual support plan. Direct care staff that serve persons with developmental disabilities in

habilitation centers or community programs operated or funded by the division shall be trained in an emergency intervention system approved by the division when such emergency intervention system is identified in a consumer's individual support plan.

Approved June 20, 2014

HB 1791 [SCS HB 1791]

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

Authorizes the Governor to convey specified state properties

AN ACT to authorize the governor to convey property owned by the state.

SECTION

1. Nevada Rehabilitation Center, governor authorized to convey property in Vernon County.
2. Bancroft Avenue Group Home, governor authorized to convey property in St. Louis City.
3. Creve Coeur Avenue Group Home, governor authorized to convey property in St. Louis County.
4. Greenbough Group Home, governor authorized to convey property in St. Louis County.
5. Western Reception and Diagnostic Correctional Center, governor authorized to convey a portion of property in Buchanon County.
6. Western Reception and Diagnostic Correctional Center, governor authorized to convey a portion of property in Buchanon County.
7. Pullan Road, governor authorized to convey a portion of property in St. Francois County.
8. Missouri State Highway Patrol Troop H, governor authorized to convey a portion of property in Buchanan County.
9. Sikeston Career Center, governor authorized to convey a portion of property in Scott County.
10. Hannibal Career Center, governor authorized to convey property in Marion County.
11. Sedalia Career Center, governor authorized to convey property in Pettis County.
12. St. Louis Central Career Center, governor authorized to convey property in St. Louis County.
13. Penney State Office Building, governor authorized to convey property in Greene County.
14. New Dawn State School, governor authorized to convey road and utility easement for property in Scott County.
15. 3219 Forest Avenue, governor authorized to convey state property in Kansas City.
16. DMH Albany Regional Office, governor authorized to convey property in Gentry County.
17. St. Louis State Psychiatric Hospital, governor authorized to convey property in St. Louis City.
18. National Guard Readiness Center, governor authorized to convey property in Springfield.
19. Governor authorized to convey property in City of St. Joseph.

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

SECTION 1. NEVADA REHABILITATION CENTER, GOVERNOR AUTHORIZED TO CONVEY PROPERTY IN VERNON COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property known as the Nevada Rehabilitation Center, Vernon County, Missouri, described as follows:

Tract 1:

A tract of land being located in the Northwest 1/4 of Section 33 and the Northeast 1/4 of Section 32 all in Township 36 North, Range 31 West of the 5th P.M., Vernon County, Missouri, being described as follows:

Beginning at the Northwest corner of said Northwest 1/4; thence S88°18'28"E along the North line of said Northwest 1/4, a distance of 2629.18 feet to an existing ½" iron pin at the Northeast Corner of said Northwest 1/4; thence S02°13'14"W along the East line of said Northwest 1/4, a distance of 1219.36 feet to an existing ½" iron pin; thence N88°36'07"W a distance of 496.23 feet to an existing ½" iron pin; thence S02°17'05"W a distance of 100.17 feet to the

Northwest Corner of Nevada Public School Addition, a subdivision located in Nevada, Vernon County, Missouri; thence N88°16'25"W a distance of 820.01 feet to the Northeast Corner of the Southwest 1/4 of said Northwest 1/4; thence S02°17'44"W along the East line of said Southwest 1/4, Northwest 1/4, a distance of 41.98 feet; thence N88°05'30"W a distance of 301.23 feet; thence S02°00'09"W a distance of 150.98 feet; thence N88°05'48"W a distance of 45.65 feet measured (45.50' deeded) to an existing ½" iron pin; thence N88°19'19"W a distance of 56.19 feet measured (55.90' deeded) to an existing 5/8" iron pin; thence S62°58'10"W a distance of 65.33 feet measured (65.44' deeded) to an existing 5/8" iron pin; thence N88°12'25"W a distance of 122.35 feet measured (122.32' deeded) to an existing 5/8" iron pin; thence N88°11'39"W a distance of 156.02 feet to an existing P/K nail; thence S01°46'44"W a distance of 68.45 feet measured (68.00' deeded) thence N88°13'16"W a distance of 23.02 feet measured (23.91' deeded) thence S04°01'50"W a distance of 103.76 feet measured (103.72' deeded) thence S88°13'16"E a distance of 181.53 feet measured (180.01' deeded) thence S02°18'32"W a distance of 13.08 feet measured (13.29' deeded); thence N88°10'53"W a distance of 153.61 feet measured (155.00' deeded) to an existing ½" iron pin; thence S01°46'44"W a distance of 80.00 feet; thence N88°13'16"W a distance of 216.16 feet; thence N02°02'19"E a distance of 79.90 feet measured (80.00' deeded) to an existing ½" iron pin; thence N88°07'15"W a distance of 115.30 feet measured (115.00' deeded) to an existing ½" iron pin; thence N02°46'44"E a distance of 185.15 feet measured (185.00' deeded); thence N88°11'51"W a distance of 251.92 feet measured (249.83' deeded) to the West line of said Northwest 1/4; thence N02°21'48"E along said West line, a distance of 34.44 feet; thence N87°07'58"W a distance of 198.51 feet measured (200.00' deeded) to an existing ½" iron pin; thence N02°16'36"E a distance of 380.00 feet to an existing ½" iron pin; thence S87°08'04"E a distance of 199.08 feet measured (200.00' deeded) to an existing ½" iron pin at the West line of said Northwest 1/4; thence N02°21'48"E along said West line, a distance of 1128.63 feet returning to the Point of Beginning. Having an Area of 87.58 acres.

Subject to road right of ways and easements, public and private, as may now be located.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 2. BANCROFT AVENUE GROUP HOME, GOVERNOR AUTHORIZED TO CONVEY PROPERTY IN ST. LOUIS CITY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property known as the Bancroft Avenue Group Home, St. Louis City, Missouri, described as follows:

Lots 38, 39 and 40 of Lindenwood, and in Block 4989 of the City of St. Louis, together fronting 150 feet on the North line of Bancroft Avenue, by a depth Northwardly of 150 feet to the dividing line of said Block; bounded East by Wabash Avenue.

Together with all improvements thereon, being known as and numbered 7109 Bancroft Avenue.

Subject to easements, conditions, restrictions, reservations, rights-of-way, building lines, zoning laws or ordinances affecting said property.

Subject to restrictions according to deed recorded in Book 1094 page 436.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 3. CREVE COEUR AVENUE GROUP HOME, GOVERNOR AUTHORIZED TO CONVEY PROPERTY IN ST. LOUIS COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property known as the Creve Coeur Avenue Group Home, St. Louis County, Missouri, described as follows:

Adjusted Tract 1 of The Boundary Adjustment Plat of Wilcox Place Lot 3 and Part of Lot 17 of William Triplett's Estate, a subdivision in St. Louis County, Missouri according to the plat thereof recorded in Plat Book 354 Page 315 of the St. Louis County Records.

Together with all improvements thereon known and numbered as 232 Creve Coeur Ave.

Subject to existing building lines, easements, conditions, restrictions, zoning regulations, etc., now of record, if any.

Subject to the agreement for right of first refusal executed between the parties and recorded of even date herewith.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 4. GREENBOUGH GROUP HOME, GOVERNOR AUTHORIZED TO CONVEY PROPERTY IN ST. LOUIS COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property known as the Greenbough Drive Group Home, St. Louis County, Missouri, described as follows:

LOT 212 OF OLD FARM ESTATES ADDITION PLAT TEN, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 124 PAGE 48 OF THE ST. LOUIS COUNTY RECORDS.

Subject to restrictions of record, conditions, reservations and easements, zoning ordinances, if any, and general taxes and assessments, not yet due and payable.

Together with all improvements thereon, being known as and numbered 13100 Greenbough Drive.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 5. WESTERN RECEPTION AND DIAGNOSTIC CORRECTIONAL CENTER, GOVERNOR AUTHORIZED TO CONVEY A PORTION OF PROPERTY IN BUCHANON COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in a portion of the property known as the Western Reception and Diagnostic Correctional Center, Buchanan County, Missouri, described as follows:

A tract of land in the West 1/2 of the Northeast Quarter, of Section 10, Township 57 North, Range 35 West, St. Joseph, Buchanan County, Missouri, and being more particularly described as follows:

Commencing at the North Quarter Corner, of said Section 10-57-35; thence South 00°37'53" East, along the West line of said Northeast Quarter, a distance of 30.00 feet, to a point on the South Right-of-Way line of Frederick Avenue, a public road, as now established, said point also being the Point of Beginning; thence South 89°51'44 East, departing said West line, and along said South Right-of-Way line, a distance of 434.35 feet; thence South 00°30'40" East, departing said South Right-of-Way line, a distance of 274.13 feet; thence South 88°13'20" West, a distance of 17.42 feet; thence South 00°09'08" East, a distance of 120.25 feet; thence South 39°57'56" West, a distance of 55.86 feet; thence North 89°42'40" West, a distance of 379.02 feet, to a point on the West line of said Northeast Quarter; thence North 00°37'53" West, along said West line, a distance of 436.88 feet, to the Point of Beginning, containing 186,084.24 square feet or 4.2719 acres.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 6. WESTERN RECEPTION AND DIAGNOSTIC CORRECTIONAL CENTER, GOVERNOR AUTHORIZED TO CONVEY A PORTION OF PROPERTY IN BUCHANON COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in a portion of the property known as the Western Reception and Diagnostic Correctional Center, Buchanan County, Missouri, described as follows:

A tract of land in the West 1/2 of the Northeast Quarter, of Section 10, Township 57 North, Range 35 West, St. Joseph, Buchanan County, Missouri, and being more particularly described as follows:

Commencing at the North Quarter Corner, of said Section 10-57-35; thence South 00°37'53" East, along the West line of said Northeast Quarter, a distance of 466.88 feet, to the Point of Beginning; thence South 89°42'40" East, departing the West line of said Northeast Quarter, a distance of 175.81 feet; thence South 02°16'44" East, a distance of 109.06', to a point of curvature; thence Southerly, along a curve to the right, having a radius of 473.50 feet, and a central angle of 11°55'34", a distance of 98.56 feet, to point of tangency; thence South 09°38'49" West, a distance of 25.88 feet, to a point of curvature; thence Southerly, along a curve to the left, having a radius of 1,209.00 feet, and a central angle of 05°38'09", a distance of 118.92 feet, to a point of tangency; thence South 04°00'41" West, a distance of 136.64 feet; thence South 00°37'02" East, a distance of 643.66 feet; thence South 89ø22'07" West, a distance of 140.25 feet, to a point on the West line of said Northeast Quarter; thence North 00°37'53" West, along the West line of said Northeast Quarter, a distance of 1,133.12 feet, to the Point of Beginning, containing 170,093.27 square feet or 3.9048 acres, more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 7. PULLAN ROAD, GOVERNOR AUTHORIZED TO CONVEY A PORTION OF PROPERTY IN ST. FRANCOIS COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in a portion of the property known as Pullan Road in St. Francois County, Missouri, described as follows:

Part of Lot 94 of F.W. Rohland's Subdivision of U.S. Survey 2969, Township 35 North, Range 5 East, St. Francois County, Missouri, more particularly described as follows:

From the southeast corner of said Lot 94; thence westerly, along the southerly line of said Lot 94, 504.00 feet, more or less, to the southeast corner of a 30 foot strip of land for roadway described by deed of record in Book 163, page 303, St. Francois County Recorder's Office; thence northerly, along the easterly line of said 30 foot strip and the northerly extension thereof, 1551.60 feet, more or less, to the northerly line of said Lot 94; thence westerly, along the northerly line of said Lot 94, 30.00 feet to the northeasterly corner of Lot 3 of Doubet Subdivision as per plat of record in Plat Book 2008R, page 7328, St. Francois County Recorder's Office; thence southerly, along the easterly line of Lot 3 of said subdivision and the southerly extension thereof, 1551.60 feet, more or less to the south line of said Lot 94; thence easterly, along the southerly line of said Lot 94, 30.00 feet to the point of beginning.

The above description is intended to represent a 30 foot strip of land for the existing roadway shown as an unnamed street by the St. Francois County Assessor but shown as Pullan Road on the plat of record in Plat Book 2008R, page 7328, St. Francois County Recorder's Office.

The above description is also intended to be over and across the 30 foot strip of land excepted from the easterly side of tracts of land described in Book 163, page 303, Book 834, page 413 and Book 1441, page 1824, St. Francois County Recorder's Office.

The State of Missouri shall retain a perpetual Ingress/Egress Easement over said 30' Strip.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 8. MISSOURI STATE HIGHWAY PATROL TROOP H, GOVERNOR AUTHORIZED TO CONVEY A PORTION OF PROPERTY IN BUCHANAN COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in a portion of the property known as Missouri State Highway Patrol Troop H in Buchanan County, Missouri, described as follows:

Beginning at an iron pipe, the northeast corner of Hartman's Subdivision in the southwest quarter of the northeast quarter of the Section thirty-four (34) Township fifty-eight (58) north, Range thirty-five (35) west of the 5th P.M., thence west five hundred forty-five and six tenths (545.6) feet, to an iron pipe on the east right-of-way line of the Belt Highway, thence northerly on a curve of one thousand eight hundred seventy and one tenth (1870.1) feet radius concave to the east the tangent of said curve bears north 3°36' west on hundred ninety-nine and three tenths (199.3) feet to a concrete monument, thence easterly five (5) feet to a concrete monument, thence northerly on a curve one thousand eight hundred sixty-five and one tenth (1865.1) feet radius concave to the east ninety-four and

sixty-four hundredths (94.64) feet to a concrete monument, thence north 0°40' east one hundred twenty-three and eight tenths (123.8) feet to a monument, thence north 35° east three hundred fourteen (314) feet to a concrete monument, thence north 38° 29' east two hundred ten (210) feet to the north line of said southwest quarter of the northeast quarter, thence east with then north line of said southwest quarter of the northeast quarter one hundred seventy five (175) feet, thence south eight hundred thirteen (813) feet to the place of beginning, containing eight and nine tenths (8.9) acres more or less.

Subject to right-of-way of public road along the north side thereof.

Subject to right-of-way for State Highway along the west side there of containing one and fifteen hundredths (1.15) acres which has been heretofore obtained by the State for road purposes by deed and condemnation.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 9. SIKESTON CAREER CENTER, GOVERNOR AUTHORIZED TO CONVEY A PORTION OF PROPERTY IN SCOTT COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in a portion of the property known as the Sikeston Career Center in Scott County, Missouri, described as follows:

Tract 1:

A tract or parcel of land being a part of USPS 614, T 26 N, R14 E of the 5th P.M., also a part of Lot 1, Block 40 in the City of Sikeston, Scott County, Missouri, and more fully described as follows:

Beginning at the northwest corner of Lot 1 in outblock 40, thence N 71° 24'E along the north line of said Lot one, 120 feet to a point, thence S 12° 34' E a distance of 80.05 feet, thence S 77° 26'W a distance of 119.34 feet to a point in the West line of said Lot one, thence N 12° 34' W on and along the West line of said Lot one a distance of 67.92 feet to the point of beginning.

Tract 2:

A tract or parcel of land being a part of Lot 1 of Outblock 40 in the City of Sikeston, Scott County, Missouri, and moreparticularly described as follows:

Beginning at the NW corner of said Lot No. 1 of Outblock 40; thence N 71°24'E., on and along the north line of aforesaid Lot 1 a distance of 120.0 feet to the point of beginning proper; thence continuing N 71°24'E., a distance of 72.0 feet; thence S 12°34'E a distance of 87.62 feet; thence S 77°26'W a distance of 71.60 feet; thence N 12°34' W a distance of 80.085 feet to the point of beginning.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 10. HANNIBAL CAREER CENTER, GOVERNOR AUTHORIZED TO CONVEY PROPERTY IN MARION COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property known as the Hannibal Career Center, Marion County, Missouri, described as follows:

All of the North One-half of Lot 2, in Block 41 in the City of Hannibal, Marion County, Missouri.

All of the South one half (S½) of Lot Two (2) in Block Forty one (41) in the City of Hannibal, Marion County, Missouri.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 11. SEDALIA CAREER CENTER, GOVERNOR AUTHORIZED TO CONVEY PROPERTY IN PETTIS COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property known as the Sedalia Career Center, Pettis County, Missouri, described as follows:

Lot number Nine (9) and Twenty-Two (22) feet and One (1) inch in width off of the West side of Lot number Eight (8) in Block number Ten (10) of Sarah E. Smith and Martha E. Martin's First Addition to the City of Sedalia, Missouri. Being part of the west half of Lot number One (1) of the North-West Quarter of Section number Three (3), in Township number Forty-Five (45) North, of Range number Twenty-One (21) West of the Fifth Principal Meridian, in the County of Pettis and State of Missouri.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 12. ST. LOUIS CENTRAL CAREER CENTER, GOVERNOR AUTHORIZED TO CONVEY PROPERTY IN ST. LOUIS COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property known as the St. Louis Central Career Center, St. Louis County, Missouri, described as follows:

Parcel 1: Lots 1 and 2 in Block 3 of Aubert Place and in Block 3763-S of the City of St. Louis, together fronting 120 feet on the North line of Delmar Boulevard, by a depth Northwardly of 167 feet 6 inches, more or less, to an alley; bounded West by Lot 3 of said block and subdivision and East by Bayard Avenue.

Parcel 2: The Eastern 70 feet, more or less, of Lots 41 and 42 in Block 3 of Aubert Place and in Block 3763-S of the City of St. Louis, fronting 70 feet more or less, on the South line of Enright Avenue, by a depth Southwardly of 111 feet 5-7/8 inches to an alley; bounded East by Bayard Avenue.

Parcel 3: Lot 3 and the Southern 117 feet 6 inches of the Eastern 5-1/2 inches of Lot 4 in the Block 3 of Aubert Place and in Block 3763-S of the City of St. Louis, beginning at a point in the North line of Delmar Boulevard 59 feet 6-1/2 inches East of the West line of said Lot 4, thence North and parallel to the West line of Lot 4, 117 feet 6 inches to a point 50 feet South of the South line of an alley; thence East 5-1/2 inches to the West line of Lot 3; thence North 50 feet to the South line of said alley; thence East 60 feet to the East line of said Lot 3; thence South 167 feet 6 inches to the North line of Delmar Boulevard; thence West on the North line of Delmar Boulevard 60 feet 5-1/2 inches to the point of beginning.

Parcel 4: The Northern 50 feet of the Eastern 5-1/2 inches of Lot 4 in Block 3 of Aubert Place and in Block 3763-S of the City of St. Louis, bounded North by an

alley, East by Lot 3; South by a line parallel to and 117 feet 6 inches North of Delmar Boulevard and West by the Western 59 feet 6-1/2 inches of Lot 4.

The Western 59 feet 6-1/2 inches of Lot 4 in Block 3 of Aubert Place and in Block 3763-S of the City of St. Louis, fronting 59 feet 6-1/2 inches on the North line of Delmar Boulevard by a depth Northwardly of 167 feet 6 inches to an alley, including that portion of said alley vacated by Ordinance No. 58373.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 13. PENNEY STATE OFFICE BUILDING, GOVERNOR AUTHORIZED TO CONVEY PROPERTY IN GREENE COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property known as the Penney State Office Building, Greene County, Missouri, described as follows:

The North Fifty-eight and Seventy-five One Hundredths (58.75)feet of Lot Twenty-four (24) Block Six (6) ORIGINAL PLAT OF SPRINGFIELD, MISSOURI; Also that part of Lot Fifteen (15) Block Six (6) lying South of the following described line to-wit: Beginning at a point One (1) foot North of a point 39 feet 5 1/2 inches East of the Southeast corner of the O'Day Building on the North side of the Public Square, thence East to Pearl Alley, being the South One (1) foot, more or less, Except the West One (1) foot, Eleven and one-half (11½) inches of Lot Fifteen (15) Block Six (6) ORIGINAL PLAT OF SPRINGFIELD, MISSOURI.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 14. NEW DAWN STATE SCHOOL, GOVERNOR AUTHORIZED TO CONVEY ROAD AND UTILITY EASEMENT FOR PROPERTY IN SCOTT COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey a road and utility easement over, on, and under property owned by the state of Missouri located at the New Dawn State School, Scott County Missouri, to the Sikeston R-6 School District, described as follows:

ROAD & UTILITY EASEMENT:

A part of the Northeast Quarter of the Northwest Quarter of Section 28, Township 26 North, Range 14 East, Scott County, Missouri and being further described by metes and bounds as follows:

Commencing at the Southwest corner of Lot 9, Block 7 of Glenn & Clara Matthews East Acres as recorded in the office of the Scott County Recorder of Deeds in Plat Book 13 on Page 12 for the point of beginning thence N 89°18'32" E along the South line thereof a distance of 120.00 feet; thence continuing N 89°18'32" E a distance of 100.98 feet; thence S 62°48'09" W a distance of 112.03 feet; thence S 89°18'32" W parallel to the South line of said Lot 9 a distance of 120.72 feet to the East right-of-way line of Glenn Street; thence N 0°41'28" W along said right-of-way line a distance of 50.00 feet to the point of beginning and containing 0.20 acres, more or less.

Subject to any and all easements, if any, affecting the same.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 15. 3219 FOREST AVENUE, GOVERNOR AUTHORIZED TO CONVEY STATE PROPERTY IN KANSAS CITY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at 3219 Forest Avenue, Kansas City, Jackson County, Missouri, described as follows:

The South 44 ½ feet of the North 80 of Lot 16, LINWOOD, a subdivision in Kansas City, Jackson County, Missouri.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 16. DMH ALBANY REGIONAL OFFICE, GOVERNOR AUTHORIZED TO CONVEY PROPERTY IN GENTRY COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the DMH Albany Regional Office, Gentry County, Missouri, described as follows:

All that part of the Northeast Quarter of Section 19, Township 63 North, Range 30 West, in the City of Albany, Gentry County, Missouri, described as follows: COMMENCING at the Northwest corner of Lot 1, Block 1, Country Boys Addition, a subdivision in the City of Albany, Gentry County, Missouri; thence South 89 degrees 53 minutes 51 seconds East along the North line of Blocks 1, 2, and 3 of said Country Boys Addition a distance of 557.39 feet to the POINT OF BEGINNING; thence North 0 degrees 17 minutes 46 seconds East a distance of 500.00 feet to a point on the North line of a Warranty Deed as filed in Book 211 at Page 1, Gentry County, Missouri; thence South 89 degrees 53 minutes 51 seconds East along the North line of said Warranty Deed a distance of 312.91 feet to a point on the West line of an existing 20 foot wide alley as established by said Country Boys Addition; thence South 0 degrees 17 minutes 46 seconds West along the West line of said alley a distance of 500.00 feet to a point on the North line of Lot 6, block 4 of said Country Boys Addition; thence North 89 degrees 53 minutes 51 seconds West along the North line of Blocks 4 and 3 of said Country Boys Addition a distance of 312.91 feet to the POINT OF BEGINNING and containing 156,456 Square Feet or 3.5917 Acres, more or less.

Access Easement

All that part of the Northeast Quarter of Section 19, Township 63 North, Range 30 West, in the City of Albany, Gentry County, Missouri, described as follows: COMMENCING at the Northwest corner of Lot 1, Block 1, Country Boys Addition, a subdivision in the City of Albany, Gentry County, Missouri; thence South 89 degrees 53 minutes 51 seconds East along the North line of Blocks 1, 2, and 3 of said Country Boys Addition a distance of 557.39 feet to a point; thence North 0 degrees 17 minutes 46 seconds East a distance of 475.00 feet to the POINT OF BEGINNING; thence North 89 degrees 53 minutes 51 seconds West a distance of 558.92 feet to a point on the East right of way line of 13th Street; thence North 0 degrees 06 minutes 41 seconds East along the East right of way line of 13th Street a distance of 25.00 feet to the Northwest corner of a

Warranty Deed as filed in Book 211 at Page 1, Gentry County, Missouri; thence South 89 degrees 53 minutes 51 seconds East along the North line of said Warranty Deed a distance of 559.00 feet to a point; thence South 0 degrees 17 minutes 46 seconds West a distance of 25.00 feet to the POINT OF BEGINNING and containing 13,974 Square Feet or 0.321 Acres, more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 17. ST. LOUIS STATE PSYCHIATRIC HOSPITAL, GOVERNOR AUTHORIZED TO CONVEY PROPERTY IN ST. LOUIS CITY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the St. Louis State Psychiatric Hospital, St. Louis City, Missouri, described as follows:

A tract of land being part of City Blocks 4741 of the City of St. Louis, Missouri and being more particularly described as follows:

Beginning at the intersection of the North line of Fyler Avenue, 60.00 feet wide, with the West line of Brannon Avenue, 60.00 feet wide; thence along said North line, North 82 degrees 45 minutes 20 seconds West, a distance of 847.45 feet to the East line of Sublette Avenue, 104.00 feet wide at this point; thence along said East line, in a northerly direction with a non-tangent curve turning to the left with a radius of 560.00 feet, having a chord bearing of North 12 degrees 44 minutes 39 seconds West and a chord distance of 118.10 feet and an arc length of 118.32 feet; thence North 18 degrees 47 minutes 50 seconds West, a distance of 836.35 feet; thence leaving said East line, North 71 degrees 12 minutes 10 seconds East, a distance of 8.23 feet; thence South 86 degrees 15 minutes 35 seconds East, a distance of 19.16 feet; thence in a easterly direction with a non-tangent curve turningto the left with a radius of 1025.00 feet, having a chord bearing of South 72 degrees 57 minutes 52 seconds East and a chord distance of 329.10 feet and an arc length of 330.53 feet; thence South 82 degrees 12 minutes 09 seconds East, a distance of 510.38 feet; thence South 88 degrees 33 minutes 16 seconds East, a distance of 197.20 feet; thence North 82 degrees 11 minutes 27 seconds East, a distance of 178.69 feet; thence North 60 degrees 49 minutes 25 seconds East, a distance of 62.57 feet; thence North 47 degrees 29 minutes 23 seconds East, a distance of 32.73 feet; thence South 80 degrees 49 minutes 08 seconds East, a distance of 67.69 feet to the West line of said Brannon Avenue; thence along said West line, South 09 degrees 10 minutes 52 seconds West, a distance of 589.65 feet; thence on a curve to the right, having a radius of 200.00 feet, a distance of 82.80 feet; thence South 32 degrees 54 minutes 06 seconds West, a distance of 137.94 feet; thence on a curve to the left, having a radius of 260.00 feet, a distance of 110.40 feet; thence South 08 degrees 34 minutes 23 seconds West, a distance of 10.00 feet to the Point of Beginning and containing 906,390 square feet or 20.81 acres, more or less

The State of Missouri shall retain access to all easements of record for the property.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 18. NATIONAL GUARD READINESS CENTER, GOVERNOR AUTHORIZED TO CONVEY PROPERTY IN SPRINGFIELD. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located at the National Guard Readiness Center, 1400 Fremont Avenue, Springfield, Greene County, Missouri, described as follows:

All that part of the Northwest Quarter of the Northeast Quarter of Section 18, Township 29 North, Range 21 West of the 5th P.M. described as follows: Commencing at the Northwest corner of the Northwest Quarter of the Northeast Quarter of said Section 18: thence South 41°20'52" East, 40.51 feet to the intersection of the South right-of-way of Division Street and the East right-of-way of Fremont Avenue, thence South 89°07'41" East, 1078.27 feet along the South right-of-way of Division Street; thence South 01°39'49" West, 377.52 feet to the point of beginning; thence, continuing, South 01°39'49" West, 117.30 feet; thence North 89°07'41" West, 21.00 feet; thence South 01°39'49" West, 661.30 feet; thence North 89°07'41" West, 355.00 feet; thence North 01°39'49" East, 778.60 feet; thence South 89°07'41" East, 376.00 feet to the point of beginning. Contains 6.40 acres per Survey No. L-253, dated January 9, 2014 by Lortz Surveying, LLC.

The State of Missouri shall retain access to all easements of record for the property.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 19. GOVERNOR AUTHORIZED TO CONVEY PROPERTY IN CITY OF ST. JOSEPH. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property located the City of St. Joseph, Buchanan County, Missouri, described as follows:

Tract 1

That part of the northwest quarter of section thirty-four (34), Township fifty-eight (58) north, range thirty-five (35) west, described as follows: Beginning at a point three hundred sixty-six and nine hundredths (366.9) feet north of the center of said Section thirty-four (34), thence north one hundred forty-and seventy-one hundredths (140.71) feet, thence west twenty-six and seventeen hundredths (26.17) feet, thence southeasterly on a curve to the left having a radius of one thousand nine hundred fifty-five and eight hundredths (1955.08) feet, one hundred forty-three and forty-four hundredths (143.44) feet to the point of beginning and containing forty-three thousandths (0.043) of an acre.

Also beginning at a point six hundred eighty-five and sixty-one hundredths (685.61) feet north of the center of said Section thirty-four (34), thence north three hundred twenty and twenty-eight hundredths (320.28) feet to present right of way line of State highway Route 4, thence southwesterly along said right of way line one hundred eighty and one hundred sixty-two thousandths (180.162) feet, thence east fifty-seven and fifty-nine hundredths (57.59) feet, thence south fifty-three and eight hundredths (53.08) feet, thence southerly to the left on a curve having a radius of one thousand nine hundred fifty and eight hundredths

(1950.08) feet, one hundred nineteen and eight-five hundredths (119.85) feet to a point thirty-nine and twenty-seven hundredths (39.27) west of point of beginning, thence east thirty-nine and twenty-seven hundredths (39.27) feet to point of beginning and containing three hundred twenty-four thousandths (0.324) of an acre.

Tract 2

That part of the northwest quarter of Section thirty-four (34), Township fifty-eight (58) north, Range thirty-five (35) west, more particularly described as:

Tract #1, being bounded by a line beginning at a point which is two hundred sixty-two and four tenths (262.4) feet north of the center of said Section thirty-four (34), thence west five (5) feet, thence northwesterly to right on the arc of a curve having a radius of one thousand nine hundred eighty-five and eight hundredths (1985.08) feet and extending a distance of two hundred fifty and thirty-seven hundredths (250.37) feet, thence east thirty and thirty-six hundredths (30.36) feet to the westerly right of way line of existing highway, thence southeasterly to left on the arc of a curve having a radius of one thousand nine hundred fifty-five and eight hundredths (1955.08) feet and extending a distance of one hundred forty-three and forty-four hundredths (143.44) feet, thence south one hundred three and sixty-nine hundredths (103.69) feet to said point of beginning.

Tract #1A, being bounded by a line beginning at a point which is five hundred six and eight tenths (506.8) feet north and one hundred sixty-five and fifty-four hundredths (165.54) feet west of the center of said Section thirty-four (34), thence west one hundred thirty-one and nine hundredths (131.09) feet to the easterly right of way line of City Route U.S. 71, thence southwesterly along said right of way line two hundred seventy-nine and seventy-eight hundredths (279.78) feet to grantor's south property line, thence east forty-five and sixty-three hundredths (45.63) feet, thence northeasterly to right on the arc of a curve having a radius of nine hundred and thirty-seven hundredths (900.37) feet and extending a distance of three hundred thirty-one and eighty-two hundredths (331.82) feet to said point of beginning.

Said Tracts #1 and 1A are for right of way for State Highway Route U.S. 71 and contain fifty-six hundredths (0.56) of an acre.

Tract 3

That part of the northwest quarter of Section thirty-four (34), Township fifty-eight (58) north, Range thirty-five (35) west, described as follows:

Beginning at a point five hundred six and eight tenths (506.8) feet north of the center of said Section thirty-four (34), thence north sixty-nine and seven tenths (69.7) feet, thence west thirty-five and twenty-two hundredths (35.22) feet, thence southeasterly on a curve to the left having a radius of one thousand nine hundred fifty-five and eight hundredths (1955.08) feet, seventy and thirty-nine hundredths (70.39) feet to a point twenty-six and seventeen hundredths (26.17) feet west of the point of beginning, thence east twenty-six and seventeen hundredths (26.17) feet to point of beginning and containing forty-nine thousandths (0.049) of an acre.

Said tract of land being for right of way for said Highway.

Tract 4

Beginning at a point five hundred seventy-six and five tenths (576.5) feet north of the southeast corner of the northwest quarter of Section thirty-four (34), Township fifty-eight (58) north, Range thirty-five (35) west, thence west two hundred ninety-two and sixty-nine hundredths (292.69) feet to the centerline of U.S. Highway No. 71, thence southwesterly seventy-nine and eighty-five hundredths (79.85) feet along the centerline of said highway, thence east three hundred thirty-two and forty-one hundredths (332.41) feet to the east line of said northwest quarter section, thence north sixty-nine and seven tenths (69.7) feet to the point of beginning.

Said tract is for right of way for State Highway Route U.S. 71 and contains thirty-nine hundredths (0.39) of an acre.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

Approved June 19, 2014

HB 1831 [CCS SCS HCS HB 1831]

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

Allows a child care facility incorporated as an LLC to qualify for the exemption for related children

AN ACT to repeal sections 210.027 and 210.211, RSMo, and to enact in lieu thereof two new sections relating to child care facilities, with a contingent effective date for a certain section.

SECTION
A. Enacting clause.
210.027. Direct payment recipients, child care providers — department's duties.
210.211. License required — exceptions — disclosure of licensure status, when.
B. Contingent effective date.

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

SECTION A. ENACTING CLAUSE. — Sections 210.027 and 210.211, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 210.027 and 210.211, to read as follows:

210.027. DIRECT PAYMENT RECIPIENTS, CHILD CARE PROVIDERS — DEPARTMENT'S DUTIES. — **1.** For child-care providers who receive state or federal funds for providing child-care **[**services in the home**]** **fee assistance,** either by direct payment or through reimbursement to a child-care beneficiary, the department of social services shall:

(1) **Establish publicly available website access to provider-specific information about any health and safety licensing or regulatory requirements for the providers, and including dates of inspections, history of violations, and compliance actions taken, as well as the consumer education information required under subdivision (12) of this section;**

(2) Establish or designate one hotline for parents to submit complaints about child care providers;

(3) Be authorized to revoke the registration of a registered provider for due cause;

[(2)**] (4)** Require providers to be at least eighteen years of age;

[(3)**] (5) Establish minimum requirements for building and physical premises to include:**

(a) Compliance with state and local fire, health, and building codes, which shall include the ability to evacuate children in the case of an emergency; and

(b) Emergency preparedness and response planning.

Child care providers shall meet these minimum requirements prior to receiving federal assistance. Where there are no local ordinances or regulations regarding smoke detectors, **the department shall** require providers, by rule, to install and maintain an adequate number of smoke detectors in the residence **or other building** where child care is provided;

[(4)**] (6)** Require providers to be tested for tuberculosis **on the schedule required for employees in licensed facilities**;

[(5)**] (7)** Require providers to notify parents if the provider does not have immediate access to a telephone;

[(6)**] (8)** Make providers aware of local opportunities for training in first aid and child care;

(9) Promulgate rules and regulations to define pre-service training requirements for child care providers and employees pursuant to applicable federal laws and regulations;

(10) Establish procedures for conducting unscheduled onsite monitoring of child care providers prior to receiving state or federal funds for providing child care services either by direct payment or through reimbursement to a child care beneficiary, and annually thereafter;

(11) Require child care providers who receive assistance under applicable federal laws and regulations to report to the department any serious injuries or death of children occurring in child care; and

(12) With input from statewide stakeholders such as parents, child care providers or administrators, and system advocate group, establish a transparent system of quality indicators appropriate to the provider setting that shall provide parents with a way to differentiate between child care providers available in their communities as required by federal rules. The system shall describe the standards used to assess the quality of child care providers. The system shall indicate whether the provider meets Missouri's registration or licensing standards, is in compliance with applicable health and safety requirements, and the nature of any violations related to registration or licensing requirements. The system shall also indicate if the provider utilizes curricula and if the provider is in compliance with staff educational requirements. Such system of quality indicators established under this subdivision with the input from stakeholders shall be promulgated by rules. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2014, shall be invalid and void. This subdivision shall not be construed as authorizing the operation, establishment, maintenance, or mandating or offering of incentives to participate in a quality rating system under section 161.216.

2. No state agency shall enforce the provisions of this section until October 1, 2015, or six months after the implementation of federal regulations mandating such provisions, whichever is later.

210.211. LICENSE REQUIRED — EXCEPTIONS — DISCLOSURE OF LICENSURE STATUS, WHEN. — 1. It shall be unlawful for any person to establish, maintain or operate a child-care facility for children, or to advertise or hold himself or herself out as being able to perform any of the services as defined in section 210.201, without having in effect a written license granted by the department of health and senior services; except that nothing in sections 210.203 to 210.245 shall apply to:

(1) Any person who is caring for four or fewer children. For purposes of this subdivision, children who are related by blood, marriage or adoption to such person within the third degree shall not be considered in the total number of children being cared for;

(2) Any person who has been duly appointed by a court of competent jurisdiction the guardian of the person of the child or children, or the person who has legal custody of the child or children;

(3) Any person who receives free of charge, and not as a business, for periods not exceeding ninety consecutive days, as bona fide, occasional and personal guests the child or children of personal friends of such person, and who receives custody of no other unrelated child or children;

(4) Any graded boarding school, summer camp, hospital, sanitarium or home which is conducted in good faith primarily to provide education, recreation, medical treatment, or nursing or convalescent care for children;

(5) Any child-care facility maintained or operated under the exclusive control of a religious organization. When a nonreligious organization, having as its principal purpose the provision of child-care services, enters into an arrangement with a religious organization for the maintenance or operation of a child-care facility, the facility is not under the exclusive control of the religious organization;

(6) Any residential facility or day program licensed by the department of mental health pursuant to sections 630.705 to 630.760 which provides care, treatment and habilitation exclusively to children who have a primary diagnosis of mental disorder, mental illness, mental retardation or developmental disability, as defined in section 630.005; and

(7) Any nursery school.

2. Notwithstanding the provisions of subsection 1 of this section, no child-care facility shall be exempt from licensure if such facility receives any state or federal funds for providing care for children, except for federal funds for those programs which meet the requirements for participation in the Child and Adult Care Food Program pursuant to 42 U.S.C. 1766. Grants to parents for child care pursuant to sections 210.201 to 210.257 shall not be construed to be funds received by a person or facility listed in subdivisions (1) and (5) of subsection 1 of this section.

3. Any child care facility not exempt from licensure shall disclose the licensure status of the facility to the parents or guardians of children for which the facility provides care. No child care facility exempt from licensure shall represent to any parent or guardian of children for which the facility provides care that the facility is licensed when such facility is in fact not licensed.

4. Any in-home licensed child care facility that is organized as a corporation, association, firm, partnership, proprietorship, limited liability company, or any other type of business entity in this state shall qualify for the exemption for related children for children who are related to the member of the corporation, association, firm, partnership, proprietorship, limited liability company, or other type of business entity who is responsible for the daily operation of the child care facility and who meets the requirements of the child care provider. If more than one member of the corporation, association, firm, partnership, proprietorship, limited liability company, or other type of business entity is responsible for the daily operation of the child care facility, the exemption for related children shall only be granted for children who are related to one of the members. All child care facilities under this subsection shall disclose the licensure status of the facility to the parents or guardians of children for which the facility provides care. A parent or guardian shall sign a written notice indicating he or she is aware of the

licensure status of the facility. The facility shall keep a copy of this signed written notice on file. All child care facilities shall provide the parent or guardian enrolling a child in the facility with a written explanation of the disciplinary philosophy and policies of the child care facility.

SECTION B. CONTINGENT EFFECTIVE DATE. — The repeal and reenactment of section 210.027 shall become effective upon the department of health and senior services providing notice to the revisor of statutes that the implementation of federal regulations mandating such provisions has occurred.

Approved July 9, 2014

HB 1835 [HB 1835]

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

Specifies that recipients of blind pension benefits with no usable vision shall be exempt from the 5-year vision re-examination requirement

AN ACT to repeal section 209.040, RSMo, and to enact in lieu thereof one new section relating to blind pension benefit requirements.

SECTION

A. Enacting clause.
209.040. Vision test required, standard of vision, exemption — amount of payments, effect of insufficient appropriations — medical assistance — increase in appropriations, limitations.

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

SECTION A. ENACTING CLAUSE. — Section 209.040, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 209.040, to read as follows:

209.040. VISION TEST REQUIRED, STANDARD OF VISION, EXEMPTION — AMOUNT OF PAYMENTS, EFFECT OF INSUFFICIENT APPROPRIATIONS — MEDICAL ASSISTANCE — INCREASE IN APPROPRIATIONS, LIMITATIONS. — 1. No person shall be entitled to a pension under sections 209.010 to 209.160 who does not have vision with or without properly adjusted glasses, up to but not including five two-hundredths, or whose best visual field is five degrees as tested with five millimeter target on perimeter. No person shall be entitled to receive a pension except upon a scientific vision test supported by a certificate of an ophthalmologist, a physician skilled in disease of the eye, or an optometrist, designated or approved by the department of social services to make such examination. To continue to be eligible to receive a pension under the provisions of this section, a person shall present to the department of social services every fifth year after the initial vision test a new certificate of an ophthalmologist, a physician skilled in disease of the eye, or an optometrist, designated or approved by the department to make a scientific vision test that such person continues to meet the requirements of this section. **Persons who have been deemed by an ophthalmologist, a physician skilled in disease of the eye, or an optometrist to have no usable vision shall be exempt from the five-year reexamination requirement of this subsection.** Every person passing the vision test and having the other qualifications provided in sections 209.010 to 209.160 shall be entitled to receive a monthly pension in an amount established by appropriations made by the general assembly for that purpose but not less than three hundred forty dollars; except that pensions to the blind as provided herein shall not be payable to a blind person unless such person has been

declared ineligible to receive aid under the federal supplemental security income program, nor shall pensions to the blind as provided herein be payable to any person who is receiving general relief assistance.

2. If the funds at the disposal of or which may be obtained by the department of social services for the payment of benefits under this section shall at any time become insufficient to pay the full amount of benefits to each person entitled thereto, the amount of benefits of each one of such persons shall be reduced pro rata in proportion to such deficiency in the total amount available or to become available for such purpose.

3. Medical assistance for blind recipients eligible for such assistance under the provisions of sections 208.151 to 208.158 shall be payable as provided in sections 208.151 to 208.158 without regard to any durational residence requirement for eligibility out of funds designated for such medical assistance and not from the blind pension fund.

4. The monthly pension provided in subsection 1 of this section shall be increased by the general assembly by an appropriation bill by a monthly pension amount which equals one-twelfth of the quotient obtained by dividing seventy-five percent of the annual growth of funds in the blind pension fund for the preceding fiscal year by the number of persons eligible to receive the monthly pension provided in subsection 1 of this section.

Approved June 10, 2014

HB 1866 [SCS HB 1866]

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

Authorizes several highway and bridge designations

AN ACT to amend chapter 227, RSMo, by adding thereto thirteen new sections relating to the designation of memorial highways and bridges.

SECTION

A. Enacting clause.
227.301. SGM Patrick R. Hurley Memorial Highway designated for a portion of State Highway U in Washington County.
227.316. Thomas Wesley Benoist Memorial Highway designated for a portion of State Highway U in Washington County.
227.327. James R. Ledbetter Memorial Bridge designated for the bridge on Missouri Highway 5 crossing over I-44 in Laclede County.
227.328. Marc Perez Memorial Bridge designated for the bridge on Missouri Route N over the Meramec River in Franklin County.
227.332. James K. Schatz Memorial Bridge designated for the bridge on Highway 185 crossing I-44 in Franklin County.
227.344. James B. Tatum Highway designated for a portion of I-49 in Newton County.
227.382. Police Officer Steven Jarvis Memorial Highway designated for a portion of I-55 in St. Louis County and Jefferson County.
227.399. Billy Dean Robinett Memorial Highway designated for a portion of U.S. Highway 54 in Cole County.
227.401. Len Dawson Bridge designated for the bridge on East Stadium Drive crossing I-435 in Jackson County.
227.450. Spc. Justin Blake Carter Memorial Highway for Life designated for a portion of U.S. Highway 60 in Wright County.
227.504. Barney Douglas (The Citizen) Memorial Bridge designated for the bridge on U.S. Highway 60 crossing Lick Creek in Ozark County.
227.507. Officer Orville Rosenstengel Memorial Highway designated for a portion of U.S. Highway 54 in Audrain County.
227.520. "Discover More on Route 54" Highway designated for a portion of U.S. Highway 54 from Kansas/Missouri state line east to Missouri/Illinois state line.

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

SECTION A. ENACTING CLAUSE. — Chapter 227, RSMo, is amended by adding thereto thirteen new sections, to be known as sections 227.301, 227.316, 227.327, 227.328, 227.332, 227.344, 227.382, 227.399, 227.401, 227.450, 227.504, 227.507, and 227.520, to read as follows:

227.301. SGM PATRICK R. HURLEY MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF STATE HIGHWAY U IN WASHINGTON COUNTY. — The portion of State Highway U from the intersection of State Highway M to the intersection of Province Road in Washington County shall be designated the "SGM Patrick R. Hurley Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway with the costs to be paid by private donations.

227.316. THOMAS WESLEY BENOIST MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF STATE HIGHWAY U IN WASHINGTON COUNTY. — The portion of State Highway U from the intersection of Province Road to the intersection of State Highway 8 in Washington County shall be designated the "Thomas Wesley Benoist Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway with the costs to be paid by private donations.

227.327. JAMES R. LEDBETTER MEMORIAL BRIDGE DESIGNATED FOR THE BRIDGE ON MISSOURI HIGHWAY 5 CROSSING OVER I-44 IN LACLEDE COUNTY. — The bridge on Missouri Highway 5 crossing over Interstate 44 in Laclede County shall be designated the "James R. Ledbetter Memorial Bridge". The department of transportation shall erect and maintain appropriate signs designating the bridge, with the costs for such designation to be paid for by private donation.

227.328. MARC PEREZ MEMORIAL BRIDGE DESIGNATED FOR THE BRIDGE ON MISSOURI ROUTE N OVER THE MERAMEC RIVER IN FRANKLIN COUNTY. — The bridge on Missouri Route N over the Meramec river in Franklin County shall be designated as the "Marc Perez Memorial Bridge". The department of transportation shall erect and maintain appropriate signs designating such bridge, with the costs of such designation to be paid for by private donations.

227.332. JAMES K. SCHATZ MEMORIAL BRIDGE DESIGNATED FOR THE BRIDGE ON HIGHWAY 185 CROSSING I-44 IN FRANKLIN COUNTY. — The bridge on Highway 185 crossing over Interstate 44 in Franklin County shall be designated the "James K. Schatz Memorial Bridge". The department of transportation shall erect and maintain appropriate signs designating the bridge with the costs for such designation to be paid by private donation.

227.344. JAMES B. TATUM HIGHWAY DESIGNATED FOR A PORTION OF I-49 IN NEWTON COUNTY. — The portion of Interstate Highway 49 in Newton County from the intersection of Highway 60 to the Newton-McDonald County line shall be designated the "James B. Tatum Highway". The department of transportation shall erect and maintain appropriate signs designating such highway with the costs to be paid by private donations.

227.382. POLICE OFFICER STEVEN JARVIS MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF I-55 IN ST. LOUIS COUNTY AND JEFFERSON COUNTY. — The portion of Interstate 55 in St. Louis County and Jefferson County between Meramec Bottom Road and Highway 141 shall be designated the "Police Officer Steven Jarvis Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway with the costs to be paid by private donations.

227.399. BILLY DEAN ROBINETT MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF U.S. HIGHWAY 54 IN COLE COUNTY. — The portion of U.S. Highway 54 in Cole County from the Hammann Drive intersection to a location one mile south of such intersection shall be designated the "Billy Dean Robinett Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the cost of such signs to be paid by private donations.

227.401. LEN DAWSON BRIDGE DESIGNATED FOR THE BRIDGE ON EAST STADIUM DRIVE CROSSING I-435 IN JACKSON COUNTY. — The bridge on East Stadium Drive crossing over Interstate 435 in Jackson County shall be designated the "Len Dawson Bridge". The department of transportation shall erect and maintain appropriate signs designating the bridge, with the costs for such designation to be paid for by private donation.

227.450. SPC. JUSTIN BLAKE CARTER MEMORIAL HIGHWAY FOR LIFE DESIGNATED FOR A PORTION OF U.S. HIGHWAY 60 IN WRIGHT COUNTY. — The portion of U.S. Highway 60 from the intersection of State Route O to the intersection of State Highway 5 in Wright County shall be designated the "Spc. Justin Blake Carter Memorial Highway for Life". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs to be paid for by private donations.

227.504. BARNEY DOUGLAS (THE CITIZEN) MEMORIAL BRIDGE DESIGNATED FOR THE BRIDGE ON U.S. HIGHWAY 60 CROSSING LICK CREEK IN OZARK COUNTY. — The bridge on U.S. Highway 160 crossing over Lick Creek in Ozark County shall be designated the "Barney Douglas (The Citizen) Memorial Bridge". The department of transportation shall erect and maintain appropriate signs designating the bridge, with the costs for such designation to be paid for by private donation.

227.507. OFFICER ORVILLE ROSENSTENGEL MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF U.S. HIGHWAY 54 IN AUDRAIN COUNTY. — The portion of U.S. Highway 54 from the intersection of County Road 557 to the intersection of County Road 577 in Audrain County shall be designated the "Officer Orville Rosenstengel Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway with the costs paid by private donations.

227.520. "DISCOVER MORE ON ROUTE 54" HIGHWAY DESIGNATED FOR A PORTION OF U.S. HIGHWAY 54 FROM KANSAS/MISSOURI STATE LINE EAST TO MISSOURI/ILLINOIS STATE LINE. — The portion of U.S. Highway 54 from the Kansas/Missouri state line east to the Missouri/Illinois state line shall be designated the "Discover More on Route 54" Highway. The department of transportation shall erect and maintain appropriate signs designating such highway, with the cost to be paid for by private donations.

Approved July 3, 2014

HB 1867 [SS SCS HCS HB 1867]

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

Changes the laws regarding underground facility safety

AN ACT to repeal sections 319.015, 319.016, 319.022, 319.024, 319.025, 319.026, 319.027, 319.028, 319.029, 319.030, 319.035, 319.040, 319.041, 319.045, 319.050, 389.585, 389.586, 389.587, 389.588, 389.589, and 389.591, RSMo, and to enact in lieu thereof thirteen new sections relating to underground facility safety, with an effective date.

SECTION

A. Enacting clause.
319.015. Definitions.
319.022. Notification centers, participation requirements and eligibility — names of owners and operators made available, when.
319.024. Public notice of excavations, duties of owner and operator.
319.025. Excavator must give notice and obtain information, when, how — notice to notification center, when — clarification of markings, response — permit for highway excavation required.
319.026. Notice of excavator, form of — written record maintained — incorrect location of facility, duty of excavator — visible markings necessary to continue work — damage, dislocation, or disturbance, notification and reporting requirements — annual report of damages required, by whom.
319.027. Design requests, how made — marking location required.
319.030. Notification of location of underground facility, when, how — failure to provide notice of location, effect.
319.031. Sewer system owner duties upon notification of intent to excavate.
319.033. Public right-of-way, installation within, requirements.
319.035. Compliance with law still requires excavation to be made in careful and prudent manner — failure to give notice or mark facilities, rebuttable presumption of negligence.
319.045. Civil penalties — attorney general may bring action and shall make public number of enforcement actions.
319.046. Arbitration of disputes, when.
319.050. Exemptions from requirement to obtain information.
319.016. Notification center participant, commission not required to be, when.
319.028. Participation in notification center required, exceptions — withdrawal from notification center inadmissible in court proceedings.
319.029. Notification required prior to excavation.
319.040. Presumption of negligence, when, rebuttable.
319.041. Safe and prudent excavation required.
389.585. Definitions.
389.586. Crossing by utility, notice, approval or rejection of proposal — maintenance of property.
389.587. Standard crossing fee and other costs.
389.588. Negotiation of terms and conditions, dispute resolution authorized — eminent domain, effect on.
389.589. Binding arbitration, when, procedure.
389.591. Applicability to all crossings.
B. Delayed effective date.

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

SECTION A. ENACTING CLAUSE. — Sections 319.015, 319.016, 319.022, 319.024, 319.025, 319.026, 319.027, 319.028, 319.029, 319.030, 319.035, 319.040, 319.041, 319.045, 319.050, 389.585, 389.586, 389.587, 389.588, 389.589, and 389.591, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 319.015, 319.022, 319.024, 319.025, 319.026, 319.027, 319.030, 319.031, 319.033, 319.035, 319.045, 319.046, and 319.050, to read as follows:

319.015. DEFINITIONS. — For the purposes of sections 319.010 to 319.050, the following terms mean:

(1) "Approximate location", a strip of land not wider than the width of the underground facility plus two feet on either side thereof. In situations where reinforced concrete, multiplicity of adjacent facilities or other unusual specified conditions interfere with location attempts, the owner or operator shall designate to the best of his or her ability an approximate location of greater width;

(2) "Design request", a request from any person for facility location information for design purposes only;

(3) "Emergency", **[**either:

(a)**]** a sudden, unexpected occurrence, presenting a clear and imminent danger demanding immediate action to prevent or mitigate loss or damage to life, health, property, or essential public services. "Unexpected occurrence" includes, but is not limited to, thunderstorms, high winds, ice or snow storms, fires, floods, earthquakes, or other soil or geologic movements, riots, accidents, water or wastewater pipe breaks, vandalism, or sabotage**[**; or

(b) Any interruption in the generation, transmission, or distribution of electricity, or any damage to property or facilities that causes or could cause such an interruption**]**;

(4) "Excavation", any operation in which earth, rock or other material in or on the ground is moved, removed or otherwise displaced by means of any tools, equipment or explosives and includes, without limitation, backfilling, grading, trenching, digging, ditching, **pulling material from a ditch but not including routine road maintenance,** drilling, well-drilling, augering, boring, tunneling, scraping, cable or pipe plowing, plowing-in, pulling-in, ripping, driving, and demolition of structures, except that, the use of mechanized tools and equipment to break and remove pavement and masonry down only to the depth of such pavement or masonry **on roads dedicated to the public use for vehicular traffic**, **[**the use of pressurized air to disintegrate and suction to remove earth, rock and other materials,**]** the tilling of soil for agricultural **[**or seeding**]** purposes **when such excavation does not exceed sixteen inches in depth**, **[**and**]** the installation of marking flags and stakes **and the use of pressurized air to disintegrate and suction to remove earth, rock, or other materials** for the location of underground facilities **[**that are not driven**]** shall not be deemed excavation. Backfilling or moving earth on the ground in connection with other excavation operations at the same site shall not be deemed separate instances of excavation**. For railroads regulated by the Federal Railroad Administration, "excavation" shall not include any excavating done by a railroad when such excavating is done entirely on land that the railroad owns or on which the railroad operates, or in the event of an emergency, excavating done by a railroad on adjacent land**;

(5) "Excavator", any person making one or more excavations who is required to make notices of excavation under the requirements of sections 319.010 to 319.050;

(6) **"Locate status", the underground facility owner's designation of the status of the locate request to the notification center which then makes that information available to the person making the locate request through electronic or other means;**

(7) "Marking", the use of paint, flags, stakes, or other clearly identifiable materials to show the field location of underground facilities, or the area of proposed excavation, in accordance with **[**the color code standard of the American Public Works Association. Unless otherwise provided by the American Public Works Association, the following color scheme shall be used: blue for potable water; purple for reclaimed water, irrigation and slurry lines; green for sewers and drain lines; red for electric, power lines, cables, conduit and lighting cables; orange for communications, including telephone, cable television, alarm or signal lines, cable or conduit; yellow for gas, oil, steam, petroleum or gaseous materials; white for proposed excavation; pink for temporary marking of construction project site features such as centerline and top of slope and toe of slope**]** **the marking standards for underground facilities as designated by the Common Ground Alliance Best Practices Version 10.0 except that "approximate location" shall comply with the requirements as set forth in subdivision (1) of this section**;

[(7)**]** **(8)** "Notification center", a statewide organization operating twenty-four hours a day, three hundred sixty-five days a year on a not-for-profit basis, supported by **[**its participants, or by more than one operator of underground facilities, having as its principal purpose the statewide receipt and dissemination to participating owners and operators of underground facilities of information concerning intended excavation activities in the area where such owners and operators have underground facilities, and open to participation by any and all such owners and operators on a fair and uniform basis. Such notification center shall be governed by a board of directors elected by the membership and composed of representatives from each general membership group, provided that one of the board members shall be a representative of the state

highways and transportation commission so long as the commission is a participant in the notification center**] a majority of the underground facility owners in the state of Missouri**;

[(8)**] (9)** "Notification center participant", an underground facility owner who is a member and participant in the notification center;

[(9)**] (10)** "Permitted project", a project for which a permit for the work to be performed is required to be issued by a local, state or federal agency and, as a prerequisite to receiving such permit, the applicant is required to notify all underground facility owners in the area of the work for purposes of identifying the location of existing underground facilities;

[(10)**] (11)** "Person", any individual, firm, joint venture, partnership, corporation, association, cooperative, municipality, political subdivision, governmental unit, department or agency and shall include a notification center and any trustee, receiver, assignee or personal representative thereof;

[(11)**] (12)** "Pipeline facility" includes**[**, without limitation, new and existing pipe, rights-of-way, and any equipment, facility, or building used or intended for use in the transportation of gas or the treatment of gas, or used or intended for use in the transportation of hazardous liquids including petroleum, or petroleum products**] all parts of a facility through which a hazardous liquid or gas moves in transportation including, but not limited to, pipe, valves and other appurtenances connected to pipe, pumping units, fabricated assemblies associated with pumping units, metering and delivery stations and fabricated assemblies therein, and breakout tanks**;

[(12) "Preengineered project", a project which is approved by an agency or political subdivision of the state and for which the agency or political subdivision responsible for the project, as part of its engineering and contract procedures, holds a meeting prior to the commencement of any construction work on such project and in such meeting all persons determined by the agency or political subdivision to have underground facilities located within the excavation area of the project are invited to attend and given an opportunity to verify or inform any agency or political subdivision of the location of their underground facilities, if any, within the excavation area and where the location of all known underground facilities are duly located or noted on the engineering drawing as specifications for the project;**]**

(13) "State plane coordinates", a system of locating a point on a flat plane developed by the National Oceanic and Atmospheric Administration and utilized by state agencies, local governments, and other persons to designate the site of a construction project;

(14) "Trenchless excavation", horizontal excavation parallel to the surface of the earth which does not use trenching or vertical digging as the primary means of excavation, including but not limited to directional boring, tunneling, or augering;

(15) "Underground facility", any item of personal property which shall be buried or placed below ground for use in connection with the storage or conveyance of water, storm drainage, sewage, telecommunications service, cable television service, electricity, oil, gas, hazardous liquids or other substances, and shall include but not be limited to pipes, sewers, conduits, cables, valves, **vaults,** lines, wires, manholes, attachments, or appurtenances, and those portions of pylons or other supports below ground that are within any public or private street, road or alley, right-of-way dedicated to the public use or utility easement of record, or prescriptive easement. If gas distribution lines or electric lines, telecommunications facilities, cable television facilities, water service lines, water system, storm drainage or sewer system lines, other than those used for vehicular traffic control, lighting of streets and highways and communications for emergency response, are located on private property and are owned solely by the owner or owners of such private property, such lines or facilities receiving service shall not be considered underground facilities for purposes of this chapter, except at locations where they cross or lie within an easement or right-of-way dedicated to public use or owned by a person other than the owner of the private property. Water and sanitary sewer lines providing service to private property that are owned solely by the owner of such property shall not be considered underground facilities at any location. **A structure that transports only storm water drainage under roadways,**

driveways, or railways shall not be considered an underground facility. [Water, storm drainage, cross road drainage, or sewer lines owned by the state highways and transportation commission shall not be considered underground facilities at any location. For railroads regulated by the Federal Railroad Administration, "underground facility" as used in sections 319.015 to 319.050 shall not include any excavating done by a railroad when such excavating is done entirely on land which the railroad owns or on which the railroad operates, or in the event of emergency, on adjacent land**]**;

(16) "Underground facility owner", any person who owns or operates underground facilities **[**as defined by this section**]**;

(17) "Working day", every day, except Saturday, Sunday or a legally declared **[**local,**]** state or federal holiday.

319.022. NOTIFICATION CENTERS, PARTICIPATION REQUIREMENTS AND ELIGIBILITY — NAMES OF OWNERS AND OPERATORS MADE AVAILABLE, WHEN. — 1. Any person, except a railroad regulated by the Federal Railroad Administration, who installs or otherwise owns or operates an underground facility shall become a participant in a notification center upon first acquiring or owning or operating such underground facility. **[**Except as provided in section 319.016, all owners and operators of underground facilities within the state shall maintain participation in a notification center.**] All underground facility owners within the state shall maintain participation in a notification center for the duration of owning and operating such underground facility. Such notification center shall be governed by a board of directors elected by the membership and composed of representatives from the general membership group.**

2. **[**All owners and operators of underground facilities which are located in a county of the first classification or second classification within the state who are not members of a notification center on August 28, 2001, shall become participants in the notification center prior to January 1, 2003. Any person who installs or otherwise becomes an owner or operator of an underground facility which is located within a county of the first classification or second classification on or after January 1, 2003, shall become a participant in the notification center within thirty days of acquiring or operating such underground facility. Beginning January 1, 2003, all owners and operators of underground facilities which are located in a county of the first classification or second classification within the state shall maintain participation in the notification center except as provided otherwise in section 319.016.

3. All owners and operators of underground facilities which are located in a county of the third classification or fourth classification within the state who are not members of a notification center on August 28, 2001, shall become participants in the notification center prior to January 1, 2005. Any person who installs or otherwise becomes an owner or operator of an underground facility which is located within a county of the third classification or fourth classification on or after January 1, 2005, shall become a participant in the notification center within thirty days of acquiring or operating such underground facility. Beginning January 1, 2005, all owners and operators of underground facilities which are located in a county of the third classification or fourth classification within the state shall maintain participation in the notification center except as provided otherwise in section 319.016.

4.**]** The notification center shall maintain in its offices and make available to any notification center participant or excavator upon request a current list of the names and addresses of each notification center participant, including the county or counties wherein each participant has underground facilities. The notification center may charge a reasonable fee to notification center participants or excavators requesting such list as is necessary to recover the actual costs of printing and mailing.

[5.**] 3.** Excavators shall be informed of the availability of the list of notification center participants **[**required in subsection 3 of this section in the manner provided for in section 319.024**]**.

[6.**]** **4.** An annual audit or review of the notification center shall be performed by a certified public accountant and a report of the findings submitted to the speaker of the house of representatives and the president pro tem of the senate.

319.024. PUBLIC NOTICE OF EXCAVATIONS, DUTIES OF OWNER AND OPERATOR. — 1. Every person owning or operating an underground facility shall assist excavators and the general public in determining the location of underground facilities before excavation activities are begun or as may be required by subsection 6 of section 319.026 or subsection 1 of section 319.030 after an excavation has commenced. Methods of informing the public and excavators of the means of obtaining such information may, but need not, include advertising, including advertising in periodicals of general circulation or trade publications, information provided to professional or trade associations which routinely provide information to excavators or design professionals, or sponsoring meetings of excavators and design professionals for such purposes. Information provided by the notification center on behalf of persons owning or operating an underground facility shall be deemed in compliance with this section by such persons. **[**Every person owning or operating underground facilities who has a written policy in determining the location of its underground facilities shall make available a copy of said policy to any notification center participant or excavator upon request.**]**

2. Every person owning or operating underground pipeline facilities shall, in addition to the requirements of subsection 1 of this section:

(1) Identify on a current basis persons who normally engage in excavation activities in the area in which the pipeline is located. Every such person who is a participant in a notification center shall be deemed to comply with this subdivision if such notification center maintains and updates a list of the names and addresses of all excavators who have given notice of intent to excavate to such notification center during the previous year and provided the notification center shall, not less frequently than annually, provide public notification and actual notification to all excavators on such list of the existence and purpose of the notification center, and procedures for obtaining information from the notification center;

(2) Either directly or through the notification center, notify excavators and the public in the vicinity of his or her underground pipeline facility of the availability of the notification center by including the information set out in subsection 1 of section 319.025 in notifications required by the safety rules of the Missouri public service commission relating to its damage prevention program;

(3) Notify excavators annually who give notice of their intent to excavate of the type of marking to be provided and how to identify the markings.

319.025. EXCAVATOR MUST GIVE NOTICE AND OBTAIN INFORMATION, WHEN, HOW — NOTICE TO NOTIFICATION CENTER, WHEN — CLARIFICATION OF MARKINGS, RESPONSE — PERMIT FOR HIGHWAY EXCAVATION REQUIRED. — 1. Except as provided in subsection **[**3**]** **4** of section 319.030 and in section 319.050, a person shall not make or begin any excavation in any public street, road or alley, right-of-way dedicated to the public use or utility easement of record or within any private street or private property without first giving notice to the notification center and obtaining information concerning the possible location of any underground facilities which may be affected by said excavation from underground facility owners whose names appear on the current list of participants in the notification center and who were communicated to the excavator as notification center participants who would be informed of the excavation notice. **[**Prior to January 1, 2003, a person shall not make or begin any excavation pursuant to this subsection without also making notice to owners or operators of underground facilities which do not participate in a notification center and whose name appears on the current list of the recorder of deeds in and for the county in which the excavation is to occur. Beginning January 1, 2003,**]** Notice to the notification center of proposed excavation shall be deemed notice to all owners and operators of underground facilities. The notice referred to in this section shall comply with the provisions of section 319.026.

2. An excavator's notice to owners and operators of underground facilities participating in the notification center pursuant to section 319.022 is ineffective for purposes of subsection 1 of this section unless given to such notification center. **[**Prior to January 1, 2003, the notice required by subsection 1 of this section shall be given directly to owners or operators of underground facilities who are not represented by a notification center.**]**

3. Notification center participants shall be relieved of the responsibility to respond to a notice of intent to excavate received directly from the person intending to commence an excavation, except for requests for clarification of markings through on-site meetings as provided in subsection 1 of section 319.030 and requests for locations at the time of an emergency as provided by section 319.050.

4. **[**If the owner or operator notifies the excavator that the area of excavation cannot be determined from the description provided by the excavator through the notice required by this section, the excavator shall provide clarification of the area of excavation by markings or by providing project plans to the owner or operator, or by meeting on the site of the excavation with representatives of the owner or operator as provided by subsection 1 of section 319.030.

5.**]** Notwithstanding the provisions of this section to the contrary, a person shall not make or begin any excavation in any state highway, or on the right-of-way of any state highway, without first obtaining a permit from the state highways and transportation commission pursuant to section 227.240, provided however, the provisions of this subsection shall not apply to railroad right-of-way owned or operated by a railroad.

319.026. NOTICE OF EXCAVATOR, FORM OF — WRITTEN RECORD MAINTAINED — INCORRECT LOCATION OF FACILITY, DUTY OF EXCAVATOR — VISIBLE MARKINGS NECESSARY TO CONTINUE WORK — DAMAGE, DISLOCATION, OR DISTURBANCE, NOTIFICATION AND REPORTING REQUIREMENTS — ANNUAL REPORT OF DAMAGES REQUIRED, BY WHOM. — 1. An excavator shall serve notice of intent to excavate to the notification center by toll-free telephone number operated on a twenty-four hour per-day, seven day per-week basis or by facsimile or by completing notice via the internet at least two working days, but not more than ten working days, before the expected date of commencing the excavation activity. The notification center receiving such notice shall inform the excavator of all notification center participants to whom such notice will be transmitted and shall promptly transmit all details of such notice provided under subsection 2 of this section to every notification center participant in the area of excavation.

2. Notices of intent to excavate given pursuant to this section shall contain the following information:

(1) The name and telephone number of the person filing the notice of excavation, if the telephone number is different than that of the excavator, and the name, address, telephone number of the excavator and whether the excavator's telephone is equipped with a recording device;

(2) The date the excavation activity is expected to commence, the depth of planned excavation and, if applicable, that the use of explosives is anticipated on the excavation site, and the type of excavation being planned, including whether the excavation involves trenchless excavation;

(3) The facsimile number, email address, and cellular telephone number of the excavator, if any;

(4) The name of the person primarily responsible for conducting the excavation or managing the excavation process, and if any of the information stated in subdivision (1) or (3) of this subsection is different for the person primarily responsible for the excavation, the notice shall also state the same information for that person;

(5) A detailed description accepted by the notification center sufficient for the location of the excavation by any one or more of the following means: by reference to a specific street address, or by description of location in relation to the nearest numbered, lettered, or named state

or county road or city street for which a road sign is posted, or by latitude and longitude including the appropriate description in degrees, minutes, and seconds, or by state plane coordinates;

(6) A description of the site of excavation by approximate distance and direction from the nearest state or county road or city street or intersection of such roads or streets unless previously provided under subdivision (5) of this subsection, and the proximity of the site to any prominent landmarks;

(7) A description of the location or locations of the excavation at the site described by direction and approximate distance in relation to prominent features of the site, such as existing buildings or roadways;

(8) Directions as to how to reach the site of the excavation from the nearest such road, if the excavation is not on or near a posted numbered, lettered, or named state or county road or city street.

3. The notification center receiving such notice shall solicit all information required by subsection 2 of this section and shall require the excavator to provide all such information before notice by the excavator is deemed to be completed pursuant to sections 319.015 to 319.050. The notification center shall transmit all details of such notice as required by this section.

4. A record of each notice of intent to excavate shall be maintained by the notification center **[**or, prior to January 1, 2003, by the nonmember owner or operator receiving direct notifications**]** for a period of five years. The record shall include the date the notice was received and all information required by subsection 2 of this section which was provided by the excavator and a record of the underground facility owners notified by the notification center. If the notification center creates a record of the notice by telephonic recording, such record of the original notice shall be maintained for one year from the date of receipt. Records of notices to excavate maintained by the notification center in electronic form shall be deemed to be records under this subsection. Persons holding records of notices of intent to excavate and records of information provided to the excavator by the notification center or owner or operator of the facility, shall make copies of such records available for a reasonable copying fee upon the request of the owner or operator of the underground facilities or the excavator filing the notice.

5. If in the course of excavation the person responsible for the excavation operations discovers that the owner or operator of the underground facility who is a participant in a notification center has incorrectly located the underground facility, he or she shall notify the notification center which shall inform the **[**notification center participant. If the owner or operator of the underground facility is not a participant in a notification center prior to the January 1, 2003, effective date for mandatory participation pursuant to section 319.022, the person responsible for the excavation shall notify the owner.**]** **underground facility owner. The underground facility owner shall respond to the incorrect locate notification within two hours of receipt of the notification by contacting the person responsible for the excavation or by correctly locating their underground facility.** The person responsible for maintaining records of the location of underground facilities for the notification center participant shall correct such records to show the actual location of such facilities, if current records are incorrect.

6. When markings have been provided in response to a notice of intent to excavate, excavators may commence or continue to work within the area described in the notice for so long as the markings are visible. **If an excavator is unable to begin the excavation within ten working days as described in the request, the excavator shall make a relocate request before beginning the excavation.** If markings become unusable due to weather, construction or other cause, the excavator shall contact the notification center to request remarking. Such notice shall be given in the same manner as original notice of intent to excavate, and the owner or operator shall remark the site in the same manner, within the same time, as required in response to an original notice of intent to excavate. Each excavator shall exercise reasonable care not to unnecessarily disturb or obliterate markings provided for location of underground facilities. If remarking is required due to the excavator's failure to exercise reasonable care, or

if repeated unnecessary requests for remarking are made by an excavator even though the markings are visible and usable, the excavator may be liable to the owner or operator for the reasonable cost of such remarking. **Nothing in this section shall allow any person other than the facility owner or their representative to mark or relocate any underground facility.**

7. Before commencing excavation, the excavator shall determine best practices for confirming the horizontal and vertical location of facilities at the site of excavation considering conditions at the site including geology, access to the site, and the presence of paved surfaces. Hand digging or soft digging shall be used as a best practice when possible.

8. In the event of any damage, dislocation, or disturbance of any underground facility in connection with any excavation, the person responsible for the excavation operations shall notify the notification center. This subsection shall be deemed to require reporting of any damage, dislocation, or disturbance to trace wires, encasements, cathode protection, permanent above-ground stakes, or other such items utilized for protection of the underground facility. The excavator shall immediately contact 911 when any damage or contact with a pipeline results in a release from the pipeline of hazardous liquid or gas to occur.

9. In the event of any damage, dislocation, or disturbance to any underground facility or any protective devices required to be reported by the excavator under subsection 8 of this section in advance of or during the excavation work, the person responsible for the excavation operations shall not conceal or attempt to conceal such damage, dislocation, or disturbance, nor shall that person attempt to make repairs to the facility unless authorized by the underground facility owner. In the case of sewer lines or facilities, emergency temporary repairs may be made by the excavator after notification without the owners' or operators' authorization to prevent further damage to the facilities. Such emergency repairs shall not relieve the excavator of responsibility to make notification as required by subsection 8 of this section.

10. No later than April 1, 2015, and each year thereafter, each underground facility owner who owns or operates electric, gas, or pipeline facilities shall submit to a central repository designated by the notification center a report of damages experienced by its facilities for the prior calendar year. The notification center shall determine the minimum information to be reported. All data submitted shall be aggregated and anonymous. Information provided by the underground facility owner specific to damage data submitted shall be accessible only to the underground facility owner unless otherwise designated by the underground facility owner.

319.027. DESIGN REQUESTS, HOW MADE — MARKING LOCATION REQUIRED. — 1. Any person may make design requests by contacting the notification center. Such design requests shall include all information deemed necessary by the notification center to complete the notice, including the identification of the person and a description of the location of the project being designed and other information similar to that required of excavators under section 319.026.

2. Design requests shall be made to the notification center at least five working days, but not more than ten working days, before the date the person has requested receiving the information from the underground facility owner. Upon receipt of a design request, the notification center shall inform the person of the name of all notification center participants to whom the notice will be transmitted and shall promptly transmit such notice to the appropriate underground facility owners.

3. Every underground facility owner who receives a design request shall mark the location of the facility, or contact the person making the request, within five working days after the date the notice was received from the notification center. If the person making the request was contacted as an alternative to marking location, the person and the underground facility owner shall mutually agree on a schedule and method for providing the information**, provided that the**

facility shall be marked within five working days if the facility owner and the person making the request are unable to agree.

4. No excavation may be commenced based upon information received through a design request. Obtaining information through a design request shall not excuse any person commencing an excavation from making notice and obtaining information under sections 319.025 and 319.026 concerning the possible location of any underground facilities which may be affected.

319.030. NOTIFICATION OF LOCATION OF UNDERGROUND FACILITY, WHEN, HOW — FAILURE TO PROVIDE NOTICE OF LOCATION, EFFECT. — 1. Every person owning or operating an underground facility to whom notice of intent to excavate is required to be given shall, upon receipt of such notice as provided in this section from a person intending to commence an excavation, inform the excavator as promptly as practical, but not in excess of two working days, unless **[**otherwise mutually agreed,**]** **the excavator agrees to extend the start date and time provided in the locate request through methods established by the notification center,** of the approximate location of underground facilities in or near the area of the excavation so as to enable the person engaged in the excavation work to locate the facilities in advance of and during the excavation work**, provided that no excavation shall begin earlier than the scheduled excavation date provided on the locate request unless the excavator has confirmed that all underground facilities have been located**. The two working days provided for notice in this subsection and subsection 1 of section 319.026, shall begin at 12:00 a.m. following the receipt of the request by the notification center. **Each underground facility owner receiving notifications from the notification center by use of the internet shall, after December 31, 2014, use the locate status system provided by the notification center. Those underground facility owners that do not receive notifications by use of the internet shall, no later than January 1, 2016, provide locate status to the notification center by an alternate method provided by the notification center. [**If the information available to the owner or operator of a pipeline facility or an underground electric or communications cable discloses that valves, vaults or other appurtenances are located in or near the area of excavation, the owner or operator shall either inform the excavator of the approximate location of such appurtenances at the same time and in the same manner as the approximate location of the remainder of the facility is provided, or shall at such time inform the excavator that appurtenances exist in the area and provide a telephone number through which the excavator may contact a representative of the owner or operator who will meet at the site within one working day after request from the excavator and at such meeting furnish the excavator with the available information about the location and nature of such appurtenances.**]** If the excavator states in the notice of intent to excavate that the excavation will involve trenchless technology, the owner or operator shall inform the excavator of the depth, to the best of his or her knowledge or ability, of the facility according to the records of the owner or operator. The owner or operator shall provide the approximate location of underground facilities by use of markings **as designated in section 319.015**. **[**If flags or stakes are used, such marking shall be consistent with the color code and other standards for ground markings.**]** Persons representing the excavator and the owner or operator shall meet on the site of excavation within two working days of a request by either person for such meeting for the purpose of clarifying markings, or upon agreement of the excavator and owner or operator, such meeting may be an alternate means of providing the location of facilities by originally marking the approximate location of the facility at the time of the meeting. If upon receipt of a notice of intent to excavate, an owner or operator determines that he or she neither owns or operates underground facilities in or near the area of excavation, the owner or operator shall within two working days after receipt of the notice, inform the excavator that the owner or operator has no facilities located in the area of the proposed excavation. The owner or operator of the underground facility shall make notice to the excavator that no facilities are located in the area of excavation by contacting the excavator by any of the following methods:

(1) By calling the primary number of the excavator or by calling the telephone number of the responsible person as provided by the excavator under subdivision (4) of subsection 2 of section 319.026;

(2) By leaving a message on the recording device for such numbers;

(3) By calling the cellular telephone number of the excavator or responsible person;

(4) By notifying the excavator by facsimile or electronic mail at numbers or addresses stated by the excavator in the notice of excavation made under subsection 2 of section 319.026;

(5) By marking "clear" or "OK" at the site of excavation; **[**or**]**

(6) By verbally informing the excavator in person.

If the only means of contacting the excavator is one or more telephone numbers provided by the excavator in the notice of excavation under section 319.026, then two attempts by the underground facility owner to contact the excavator at one of the telephone numbers provided shall constitute compliance with this subsection**; or**

(7) By use of a locate status system.

2. A record of the date and means of informing the excavator that no facilities were located by the owner or operator shall be included in the written records of the underground facility owner regarding each specific notice of excavation **and shall be retained for a period of five years**.

3. **If the owner or operator notifies the excavator that the area of excavation cannot be determined from the description provided by the excavator through the notice required by this section, the excavator shall provide clarification of the area of excavation by marking the area with white flags or white paint, or by providing project plans to the owner or operator, or by meeting on the site of the excavation with representatives of the owner or operator as provided for in this section.**

4. In the event that a person owning or operating an underground facility fails to comply with the provisions of subsection 1 of this section after notice given by an excavator in compliance with section 319.026, the excavator, prior to commencing the excavation, shall give a second notice to the notification center as required by section 319.026 stating that there has been no response to the original notice given under section 319.026. After the receipt of the notice stating there has been "no response", the owner or operator of an underground facility shall, within two hours of the receipt of such notice, mark its facilities or contact and inform the excavator of when the facilities will be marked; provided, however, that for "no response" notices made to the notification center by 2:00 p.m., the markings shall be completed on the working day the notice is made to the notification center, and provided that for "no response" notices made to the notification center after 2:00 p.m., the markings shall be completed no later than 10:00 a.m. on the next working day. If an underground facility owner fails to mark its facilities or contact the excavator as required by this subsection, the excavator may commence the excavation. Nothing in this subsection shall excuse the excavator from exercising the degree of care in making the excavation as is otherwise required by law.

[4.**] 5.** For purposes of this section, a period of two working days begins at 12:00 a.m. following when the request is made.

319.031. SEWER SYSTEM OWNER DUTIES UPON NOTIFICATION OF INTENT TO EXCAVATE. — 1. In addition to the other requirements of section 319.030, the response to a notice of intent to excavate received by a sewer system owner, when such owner has underground facilities located in the area of excavation identified in the notice and when the notice indicates that trenchless excavation methods will be used, shall include a determination of whether sewer service connections exist in the area of the excavation.

2. If the sewer system owner determines that sewer service connections exist in the area of the excavation identified in a notice of intent to excavate, the owner shall provide his or her best available information, or notice that the information does not exist,

regarding the location of such connections to the excavator by any of the following methods:

(1) Placing a triangular green mark at the approximate location of the sewer service connection pointing in the direction of the customer structure serviced;

(2) Providing electronic copies of the information to the excavator;

(3) Delivering copies of the information to the excavator by facsimile or by other agreed upon means; or

(4) Arranging to meet the excavator at the site of the excavation to provide the information.

3. Providing the best available information, or notice that the information does not exist, regarding the location of sewer service connections that exist in the area of excavation identified in a notice of intent to excavate shall constitute full compliance with this section, and a sewer system owner shall not be liable to any party for damages or injuries resulting from an excavation if they are in compliance with this section.

4. Providing the best available information regarding the location of sewer service connections that exist in the area of excavation identified in a notice of intent to excavate shall not in and of itself constitute ownership, operation, control, or management of sewer service lines by a sewer system owner.

319.033. PUBLIC RIGHT-OF-WAY, INSTALLATION WITHIN, REQUIREMENTS. — By January 1, 2016, if new lateral sewer pipes or water service lines are installed and connected to an underground facility within the public right-of-way, as defined in section 319.015, or if such infrastructure is fully replaced by excavation within the public right-of-way, the facility owner shall be required to place tracer wire or other utility location technology and an access point within a protective enclosure over water lines and cleanouts for gravity sewer laterals. For sewer laterals operating under pressure or vacuum, the facility owner shall be required to place an access point within a protective enclosure and shall not be required to place a cleanout. All protective enclosures and cleanouts shall be extended to grade and installed so that it is easily accessible. For water service lines and sewer laterals operating under pressure or vacuum, tracer wire, or other utility location technology, shall be placed within the protective enclosure to provide approximate location of the underground facilities in these areas that are located within a public right-of-way. An underground facility owner shall not be liable to any party for damages or injuries resulting from an excavation if they are in compliance with this section. This section shall apply to all installations of water service lines and sewer laterals without regard to their status as underground facilities under section 319.015. Nothing in this section shall require any owner of underground facilities who is not otherwise required under sections 319.010 to 319.050 to become a notification center participant.

319.035. COMPLIANCE WITH LAW STILL REQUIRES EXCAVATION TO BE MADE IN CAREFUL AND PRUDENT MANNER — FAILURE TO GIVE NOTICE OR MARK FACILITIES, REBUTTABLE PRESUMPTION OF NEGLIGENCE. — 1. Obtaining information as required by sections 319.010 to 319.050 does not excuse any person making any excavation from doing so in a careful and prudent manner.

2. Nothing in sections 319.010 to 319.050 shall relieve an excavator from the obligation to excavate in a safe and prudent manner, nor shall it absolve an excavator from liability for damage to underground facilities.

3. The failure of any excavator to give notice of proposed excavation activities as required by this chapter shall be a rebuttable presumption of negligence on his or her part in the event that such failure shall cause injury, loss, or damage. In addition to any penalties provided herein, liability under common law may apply.

4. The failure of an underground facility owner to mark his or her facilities that are located in an area of excavation described in a notice of intent to excavate received by the

underground facility owner, as required by section 319.030, or the failure of an underground facility owner to be a notification center participant, consistent with the provisions of section 319.022, shall be a rebuttable presumption of negligence on the part of such owner in the event that such failure shall cause injury, loss, or damage. In addition to any penalties provided herein, liability under common law may apply.

319.045. CIVIL PENALTIES — ATTORNEY GENERAL MAY BRING ACTION AND SHALL MAKE PUBLIC NUMBER OF ENFORCEMENT ACTIONS. — 1. **[**In the event of any damage or dislocation or disturbance of any underground facility in connection with any excavation, the person responsible for the excavation operations shall immediately notify the notification center. This subsection shall be deemed to require reporting of any damage, dislocation, or disturbance to trace wires, encasements, cathode protection, permanent above-ground stakes or other such items utilized for protection of the underground facility.

2. In the event of any damage or dislocation or disturbance to any underground facility or any protective devices required to be reported by the excavator under subsection 1 of this section, in advance of or during the excavation work, the person responsible for the excavation operations shall not conceal or attempt to conceal such damage or dislocation or disturbance, nor shall that person attempt or make repairs to the facility unless authorized by the owner or operator of the facility. In the case of sewer lines or facilities, emergency temporary repairs may be made by the excavator after notification without the owners' or operators' authorization to prevent further damage to the facilities. Such emergency repairs shall not relieve the excavator of responsibility to make notification as required by subsection 1 of this section.

3.**]** Any person who violates in any material respect the provisions of section 319.022, 319.025, 319.026, **[**319.029,**]** 319.030, 319.037, or this section or who willfully damages an underground facility shall be liable to the state of Missouri for a civil penalty of up to ten thousand dollars for each violation for each day such violation persists, except that the maximum penalty for violation of the provisions of sections 319.010 to 319.050 shall not exceed five hundred thousand dollars for any related series of violations. An action to recover such civil penalty may be brought by the attorney general or a prosecuting attorney on behalf of the state of Missouri in any appropriate circuit court of this state. Trial thereof shall be before the court, which shall consider the nature, circumstances and gravity of the violation, and with respect to the person found to have committed the violation, the degree of culpability, the absence or existence of prior violations, whether the violation was a willful act, the effect on ability to continue to do business, any good faith in attempting to achieve compliance, ability to pay the penalty, and such other matters as justice may require in determining the amount of penalty imposed.

[4.**] 2.** The attorney general may bring an action in any appropriate circuit court of this state for equitable relief to redress or restrain a violation by any person of any provision of sections 319.010 to 319.050. The court may grant such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, temporary or permanent.

3. The attorney general shall make public the aggregate number of enforcement actions for the previously completed calendar year prior to March thirty-first of the current year.

319.046. ARBITRATION OF DISPUTES, WHEN. — Parties with a dispute related to the provisions of sections 319.015 to 319.050 may request arbitration for disputes of less than five thousand dollars.

319.050. EXEMPTIONS FROM REQUIREMENT TO OBTAIN INFORMATION. — 1. The provisions of sections 319.025 and 319.026 shall not apply to any excavation when necessary due to an emergency as defined in section 319.015. An excavation may proceed regarding such emergency, provided all reasonable precautions have been taken to protect the underground

facilities. In any such case, the excavator shall give notification, substantially in compliance with section 319.026, as soon as practical, and upon being notified that an emergency exists, each underground facility owner in the area shall, within two hours after receiving such notice, provide markings or contact the excavator with any information immediately available to assist the excavator and shall inform the excavator if not able to mark within the two hours of when the underground facility will be marked at the site of the emergency.

2. For a request submitted as an emergency request that does not meet the definition of an emergency as defined in section 319.015, the facility owner shall notify the excavator within two hours that the request does not meet the requirements of an emergency, and the locate request will be marked within two working days under subsection 1 of section 319.030.

3. The excavator may be liable to the owner or operator for costs directly associated with the locating of any such underground facility relating to a notification of an emergency that does not meet the definition of emergency as stated in section 319.015.

[319.016. NOTIFICATION CENTER PARTICIPANT, COMMISSION NOT REQUIRED TO BE, WHEN. — Notwithstanding any provision of sections 319.010 to 319.050 to the contrary, the state highways and transportation commission shall not be required to be a notification center participant after December 31, 2014, but nothing in this section shall prohibit the commission from voluntarily choosing to be a notification center participant after that date.**]**

[319.028. PARTICIPATION IN NOTIFICATION CENTER REQUIRED, EXCEPTIONS — WITHDRAWAL FROM NOTIFICATION CENTER INADMISSIBLE IN COURT PROCEEDINGS. — 1. On or after January 1, 2003, an owner or operator of underground facilities, who has become a participant in the notification center as required in section 319.022, will maintain participation in the notification center, unless it is determined that the inaccuracy rate of the notification center reaches fifteen percent. The accuracy rate shall be determined by the number of notifications of an excavation, where the owner or operator has no underground facilities at the excavation site, as described in the excavators notification, divided by the total number of notifications to an owner or operator of underground facilities during any twelve-month period.

2. Once the notification center has an inaccuracy rate of fifteen percent or higher for any owner or operator of underground facilities, then any such owner or operator may withdraw from participation in the notification center by providing written notice to the notification center of its withdrawal. The owner or operator shall then file with the recorder of deeds for each county it has underground facilities a statement that it has underground facilities and a name and phone number of a contact person that excavators shall contact and notify of its intent to excavate. The owner or operator shall also publish, at least quarterly, in a newspaper or other publication of general circulation in counties that have underground facilities a statement that the owner or operator has underground facilities and who the excavator shall contact regarding its intent to excavate.

3. After January 1, 2003, in the event that an owner or operator withdraws from the notification center no party may use in any legal proceeding the fact that an owner or operator has withdrawn from the notification center as evidence to establish negligence, recklessness, lack of adherence to industry standards, or any other manner which would suggest that the owner or operator failed to comply with any standard of care.**]**

[319.029. NOTIFICATION REQUIRED PRIOR TO EXCAVATION. — Notwithstanding the fact that a project is a preengineered project or a permitted project, or that a design request was previously made, excavators connected therewith shall be required to give notification in accordance with sections 319.025 and 319.026 prior to commencement of excavation.**]**

[319.040. PRESUMPTION OF NEGLIGENCE, WHEN, REBUTTABLE. — The failure of any excavator to give notice of proposed excavation activities as required by this chapter shall be a rebuttable presumption of negligence on his part in the event that such failure shall cause injury, loss or damage. In addition to any penalties provided herein, liability under common law may apply.**]**

[319.041. SAFE AND PRUDENT EXCAVATION REQUIRED. — Nothing in the foregoing shall relieve an excavator from the obligation to excavate in a safe and prudent manner, nor shall it absolve an excavator from liability for damage to legally installed facilities.**]**

[389.585. DEFINITIONS. — As used in sections 389.585 to 389.591, the following terms mean:

(1) "Crossing", the construction, operation, repair, or maintenance of a facility over, under, or across a railroad right-of-way by a utility when the right-of-way is owned by a land management company and not a railroad or railroad corporation;

(2) "Direct expenses", includes, but is not limited to, any or all of the following:

(a) The cost of inspecting and monitoring the crossing site;

(b) Administrative and engineering costs for review of specifications and for entering a crossing on the railroad's books, maps, and property records and other reasonable administrative and engineering costs incurred as a result of the crossing;

(c) Document and preparation fees associated with a crossing and any engineering specifications related to the crossing;

(d) Damages assessed in connection with the rights granted to a utility with respect to a crossing;

(3) "Facility", any cable, conduit, wire, pipe, casing pipe, supporting poles and guys, manhole, or other material or equipment that is used by a utility to furnish any of the following:

(a) Communications, communications-related, wireless communications, video, or information services;

(b) Electricity;

(c) Gas by piped system;

(d) Petroleum or petroleum products by piped system;

(e) Sanitary and storm sewer service;

(f) Water by piped system;

(4) "Land management company", an entity that owns, leases, holds by easement, holds by adverse possession or otherwise possesses a corridor which is used for rail transportation purposes and is not a railroad or railroad corporation;

(5) "Land management corridor", includes one or more of the following:

(a) A right-of-way or other interest in real estate that is owned, leased, held by easement, held by adverse possession or otherwise possessed by a land management company and not a railroad or railroad corporation; and which is used for rail transportation purposes. "Land management corridor" does not include yards, terminals or stations. "Land management corridor" also does not include railroad tracks or lines which have been legally abandoned;

(b) Any other interest in a right-of-way formerly owned by a railroad or railroad corporation that has been acquired by a land management company or similar entity and which is used for rail transportation purposes;

(6) "Notice", a written description of the proposed project. Such notice shall include, at a minimum: a description of the proposed crossing including blueprints or plats, print copies of the engineering specifications for the crossing, a proposed time line for the commencement and completion of work at the crossing, a narrative description of the work to be performed at the crossing, proof of insurance for the work to be done and other reasonable requirements necessary for the processing of an application;

(7) "Railroad" or "railroad corporation", a railroad corporation organized and operating under chapter 388, or any other corporation, trustees of a railroad corporation, company, affiliate, association, joint stock association or company, firm, partnership, or individual, which is an owner, operator, occupant, lessee, manager, or railroad right-of-way agent acting on behalf of a railroad or railroad corporation;

(8) "Railroad right-of-way", includes one or more of the following:

(a) A right-of-way or other interest in real estate that is owned or operated by a land management company and not a railroad or railroad corporation;

(b) Any other interest in a former railroad right-of-way that has been acquired or is operated by a land management company or similar entity;

(9) "Special circumstances", includes either or both of the following:

(a) The characteristics of a segment of a railroad right-of-way not found in a typical segment of a railroad right-of-way that enhance the value or increase the damages or the engineering or construction expenses for the land management company associated with a proposed crossing, or to the current or reasonably anticipated use by a land management company of the railroad right-of-way, necessitating additional terms and conditions or compensation associated with a crossing;

(b) Variances from the standard specifications requested by the land management company;

"Special circumstances" may include, but is not limited to, the railroad right-of-way segment's relationship to other property, location in urban or other developed areas, the existence of unique topography or natural resources, or other characteristics or dangers inherent in the particular crossing or segment of the railroad right-of-way;

(10) "Telecommunications service", the transmission of information by wire, radio, optical cable, electronic impulses, or other similar means. As used in this definition, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols;

(11) "Utility", shall include:

(a) Any public utility subject to the jurisdiction of the public service commission;

(b) Providers of telecommunications service, wireless communications, or other communications-related service;

(c) Any electrical corporation which is required by its bylaws to operate on the not-for-profit cooperative business plan, with its consumers who receive service as the stockholders of such corporation, and which holds a certificate of public convenience and necessity to serve a majority of its customer-owners in counties of the third classification as of August 28, 2003;

(d) Any rural electric cooperative; and

(e) Any municipally owned utility.**]**

[389.586. CROSSING BY UTILITY, NOTICE, APPROVAL OR REJECTION OF PROPOSAL — MAINTENANCE OF PROPERTY. — 1. After the land management company receives a copy of the notice from the utility, the land management company shall send a complete copy of that notice, by certified mail or by private delivery service which requires a return receipt, to the railroad or railroad corporation within two business days. No utility may commence a crossing until the railroad or railroad corporation has approved the crossing. The railroad or railroad corporation shall have thirty days from the receipt of the notice to review and approve or reject the proposed crossing. The railroad or railroad corporation shall reject a proposed crossing only if special circumstances exist. If the railroad or railroad corporation rejects a proposed crossing, the utility may submit an amended proposal for a crossing. The railroad or railroad corporation shall have an additional thirty days from receipt of the amended proposal to review and approve or reject the amended crossing proposal. The railroad or railroad corporation shall not unreasonably withhold approval. Once the railroad or railroad corporation grants such approval, and upon payment of the fee and any other payments authorized pursuant to sections 389.586 or 389.587, the utility shall be deemed to have authorization to commence the crossing activity. The utility shall provide the railroad or railroad corporation with written notification of the commencement of the crossing activity before beginning such activity.

2. The land management company and the utility shall maintain and repair its own property within the land management corridor and each shall bear responsibility for its own acts and omissions, except that the utility shall be responsible for any bodily injury or property damage arising from the installation, maintenance, repair and its use of the crossing. The railroad or railroad corporation may require the utility and the land management company to obtain reasonable amounts of comprehensive general liability insurance and railroad protective liability insurance coverage for a crossing, and that this insurance coverage name the railroad or railroad corporation as an insured. Further, the land management company and the utility shall provide the railroad or railroad corporation with proof that they have liability insurance coverage which meets such requirements, if any.

3. A utility shall have immediate access to a crossing for repair and maintenance of existing facilities in case of an immediate threat to life and upon notification to the applicable railroad or railroad corporation. Before commencing any such work, the utility must first contact the railroad or railroad corporation's dispatch center, command center or other facility which is designated to receive emergency communications.

4. The utility shall be provided a crossing, absent a claim of special circumstances, after payment by the utility of the standard crossing fee, submission of completed engineering specifications to the land management company, and approval of the crossing by the railroad or railroad corporation. The engineering specifications shall comply with the clearance requirements as established by the National Electrical Safety Code, the American Railway Engineering and Maintenance of Way Association and the standards of the applicable railroad or railroad corporation which are in effect and which apply to conditions at a particular crossing. The land management company and utility shall further be responsible for any modifications, upgrades or other changes which may be needed to comply with changes in said standards.

5. The utility, the railroad or railroad corporation, and the land management company shall agree to such other terms and conditions as may be necessary to provide for reasonable use of a land management corridor by a utility.**]**

[389.587. STANDARD CROSSING FEE AND OTHER COSTS. — Unless otherwise agreed by the parties and subject to section 389.588, a utility that locates its facilities

within the railroad right-of-way for a crossing, other than a crossing along a state highway or other public road, shall pay the land management company a one-time standard crossing fee of one thousand five hundred dollars for each crossing plus the costs associated with modifications to existing insurance contracts of the land management company. The standard crossing fee shall be in lieu of any license, permit, application, plan review, or any other fees or charges to reimburse the land management company for the direct expenses incurred by the land management company as a result of the crossing. The utility shall also reimburse the land management company for any actual flagging expenses associated with a crossing in addition to the standard crossing fee. The railroad or railroad corporation has the right to halt work at the crossing if the flagging does not meet the standards of the railroad or railroad corporation. Nothing in this section is intended to otherwise restrict or limit any authority or right a utility may have to locate facilities at a crossing along a state highway or any other public road or to otherwise enter upon lands where authorized by law.**]**

[389.588. NEGOTIATION OF TERMS AND CONDITIONS, DISPUTE RESOLUTION AUTHORIZED — EMINENT DOMAIN, EFFECT ON. — 1. Notwithstanding the provisions of section 389.586, nothing shall prevent a land management company and a utility from otherwise negotiating the terms and conditions applicable to a crossing or the resolution of any disputes relating to the crossing so long as they do not interfere with the rights of a railroad or railroad corporation. No agreement between a land management company and a utility shall affect the rights, interests or operations of a railroad or railroad corporation.

2. Notwithstanding subsection 1 of this section, the provisions of this section shall not impair the authority of a utility to secure crossing rights by easement pursuant to the exercise of the power of eminent domain.**]**

[389.589. BINDING ARBITRATION, WHEN, PROCEDURE. — 1. If the parties cannot agree that special circumstances exist, the dispute shall be submitted to binding arbitration.

2. Either party may give written notice to the other party of the commencement of a binding arbitration proceeding in accordance with the commercial rules of arbitration in the American Arbitration Association. Any decision by the board of arbitration shall be final, binding and conclusive as to the parties. Nothing provided in this section shall prevent either party from submission of disputes to the courts. Land management companies and utilities may seek enforcement of sections 389.586 through 389.591 in a court of proper jurisdiction and shall be entitled to reasonable attorney fees if they prevail.

3. If the dispute over special circumstances concerns only the compensation associated with a crossing, then the utility may proceed with installation of the crossing during the pendency of the arbitration.**]**

[389.591. APPLICABILITY TO ALL CROSSINGS. — 1. Notwithstanding any provision of law to the contrary, sections 389.585 to 389.591 shall apply in all crossings of land management corridors involving a land management company and a utility and shall govern in the event of any conflict with any other provision of law, except that sections 389.585 to 389.591 shall not override or nullify the condemnation laws of this state nor confer the power of eminent domain on any entity not granted such power prior to August 28, 2013.

2. The provisions of sections 389.585 to 389.591 shall apply to a crossing commenced after August 28, 2013. These provisions shall also apply to a crossing

commenced before August 28, 2013, but only upon the expiration or termination of the agreement for such crossing.**]**

SECTION B. DELAYED EFFECTIVE DATE. — This act shall become effective January 1, 2015.

Approved June 30, 2014

HB 1882 [HCS HB 1882]

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

Changes the laws regarding the administrative requirements of public employee retirement plans

AN ACT to repeal sections 21.557, 21.561, 21.562, 21.563, 21.564, 105.660, 105.664, 105.665, 105.666, 105.670, 105.683, and 105.684, RSMo, and to enact in lieu thereof twelve new sections relating to administrative requirements of public employee retirement plans.

SECTION

A. Enacting clause.
21.557. Personnel and actuarial assistance authorized — compensation, how paid.
21.561. Retirement systems, state and local to cooperate.
21.562. Cost-of-living increases in pension benefits or other increases in payments beyond prior year, notice of to committee, when — evidence of actuarial soundness, when.
21.563. Report, contents — submitted when.
105.660. Definitions, retirement benefit changes.
105.664. Actuarial valuation performed at least biennially — forwarded to joint committee on public employee retirement, when.
105.665. Cost statement of proposed changes prepared by actuary — contents.
105.666. Board member education program, curriculum, requirements — annual pension benefit statement required.
105.670. Cost statement available for inspection — effect of changes (general assembly).
105.683. Plan deemed delinquent, when, effect of.
105.684. Benefit increases prohibited, when — amortization of unfunded actuarial accrued liabilities — accelerated contribution schedule required, when.
105.702. Minority and women money managers, brokers, and investment counselors, procurement action plan required — annual report.
21.564. Study by joint committee on public pensions, retirement and benefits — report to general assembly, when.

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

SECTION A. ENACTING CLAUSE. — Sections 21.557, 21.561, 21.562, 21.563, 21.564, 105.660, 105.664, 105.665, 105.666, 105.670, 105.683, and 105.684, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 21.557, 21.561, 21.562, 21.563, 105.660, 105.664, 105.665, 105.666, 105.670, 105.683, 105.684, and 105.702, to read as follows:

21.557. PERSONNEL AND ACTUARIAL ASSISTANCE AUTHORIZED — COMPENSATION, HOW PAID. — The committee may employ such personnel and actuarial assistance as it deems necessary to carry out its duties and prepare required reports. The compensation of such personnel and the expenses of the committee shall be paid from **moneys appropriated to the committee or from** the joint contingent fund **as approved [**or jointly from the senate and house contingent funds until an appropriation is made therefor**]**.

21.561. RETIREMENT SYSTEMS, STATE AND LOCAL TO COOPERATE. — 1. All state and local public employee retirement systems shall cooperate with and assist the committee in the performance of its duties and shall make available all books, records and information requested.

2. **If any state or local public employee retirement system does not comply with the committee's request for books, records, or information, or does not cooperate and assist the committee as provided in subsection 1 of this section, then the committee may request the staff or board members of any state or local public employee retirement system to testify before the committee regarding non-compliance with this section.**

3. The committee may subpoena witnesses, take testimony under oath, and compel the production of records.

21.562. COST-OF-LIVING INCREASES IN PENSION BENEFITS OR OTHER INCREASES IN PAYMENTS BEYOND PRIOR YEAR, NOTICE OF TO COMMITTEE, WHEN — EVIDENCE OF ACTUARIAL SOUNDNESS, WHEN. — 1. **[**All state and local public employee retirement systems providing periodic cost-of-living increases in pension and retirement benefits paid to its retired officers and employees and spouses of deceased officers and employees prior to September 28, 1985, shall notify the joint committee on public employee retirement of such periodic cost-of-living increases within seven days after September 28, 1985.

2.**]** All state or local public employee retirement systems shall notify the committee within seven calendar days when the governing body thereof which determines the amount and type of plan benefits to be paid takes final action providing any new or additional payments **beyond the plan provisions of the prior plan year** of periodic cost-of-living increases in pension and retirement benefits for its retired officers and employees and spouses of deceased officers and employees.

[3.**] 2.** If so requested at any time by the committee, any state or local public employee retirement system providing such periodic cost-of-living increases shall provide satisfactory evidence of its actuarial soundness.

21.563. REPORT, CONTENTS — SUBMITTED WHEN. — The committee shall compile a full report of its activities for submission to the general assembly. The report shall be submitted not later than the **[**fifteenth of January of**]** **annual first quarterly meeting of the joint committee on public employee retirement** each year in which the general assembly convenes in regular session and shall include any recommendations which the committee may have for legislative action, as well as any recommendations to retirement system boards of management. The report shall also include an analysis and statement of the manner in which statutory provisions relating to public employee retirement programs are being executed.

105.660. DEFINITIONS, RETIREMENT BENEFIT CHANGES. — The following words and phrases as used in sections 105.660 to 105.685, unless a different meaning is plainly required by the context, shall mean:

(1) "Actuarial valuation", a mathematical process which determines plan financial condition and plan benefit cost;

(2) "Actuary", an actuary (i) who is a member of the American Academy of Actuaries or who is an enrolled actuary under the Employee Retirement Income Security Act of 1974 and (ii) who is experienced in retirement plan financing;

(3) "Board", the governing board or decision-making body of a plan that is authorized by law to administer the plan;

(4) "Defined benefit plan", a plan providing a definite benefit formula for calculating retirement benefit amounts;

(5) "Defined contribution plan", a plan in which the contributions are made to an individual retirement account for each employee;

(6) "Funded ratio", the ratio of the actuarial value of assets over its actuarial accrued liability;

(7) "Lump sum benefit plan", payment within one taxable year of the entire balance to the participant from a plan;

(8) "Plan", any retirement system established by the state of Missouri or any political subdivision or instrumentality of the state for the purpose of providing plan benefits for elected or appointed public officials or employees of the state of Missouri or any political subdivision or instrumentality of the state;

(9) "Plan benefit", the benefit amount payable from a plan together with any supplemental payments from public funds;

(10) "Substantial proposed change", a proposed change in future plan benefits which would increase or decrease the total contribution percent by at least one-quarter of one percent of active employee payroll, or would increase or decrease a plan benefit by five percent or more, or would materially affect the actuarial soundness of the plan. In testing for such one-quarter of one percent of payroll contribution increase, the proposed change in plan benefits shall be added to all actual changes in plan benefits since the last date that an actuarial valuation was prepared. **The closing or freezing of a current defined benefit plan is considered a substantial proposed change only for the purposes of sections 105.665, 105.670, 105.675, and 105.685.**

105.664. ACTUARIAL VALUATION PERFORMED AT LEAST BIENNIALLY — FORWARDED TO JOINT COMMITTEE ON PUBLIC EMPLOYEE RETIREMENT, WHEN. — **1.** Each plan shall at least biennially prepare and have available as public information an actuarial valuation performed in compliance with **[**the recommended**]** **applicable** standards and guidelines as set forth by the governmental accounting standards board. Any plan currently performing valuations on a biennial basis making a substantial proposed change in benefits as defined in section 105.660 shall have a new actuarial valuation performed using the same methods and assumptions for the most recent periodic actuarial valuation.

2. An actuarial valuation performed in compliance with applicable governmental accounting standards board pronouncements shall be forwarded to the joint committee on public employee retirement no later than sixty calendar days after completion or adoption of such valuation.

105.665. COST STATEMENT OF PROPOSED CHANGES PREPARED BY ACTUARY — CONTENTS. — 1. The legislative body or committee thereof which determines the amount and type of plan benefits to be paid shall, before taking final action on any substantial proposed change in plan benefits, cause to be prepared a statement regarding the cost of such change.

2. The cost statement shall be prepared by an actuary using the methods used in preparing the most recent periodic actuarial valuation for the plan and shall, without limitation by enumeration, include the following:

(1) The level normal cost of plan benefits currently in effect, which cost is expressed **both in estimated annual dollars and** as a percent of active employee payroll;

(2) The contribution for unfunded accrued liabilities currently payable by the plan, which cost is expressed **both in estimated annual dollars and** as a percent of active employee payroll and shall be over a period not to exceed thirty years;

(3) The total contribution rate expressed **both in estimated annual dollars and** as a percent of active **[**employees**]** **employee** payroll, which contribution rate shall be the total of the normal cost percent plus the contribution percent for unfunded accrued liabilities;

(4) A statement as to whether the legislative body is currently paying the total contribution rate as defined in subdivision (3) of this subsection;

(5) **The plan's actuarial value of assets, market value of assets, actuarial accrued liability, and funded ratio as defined in section 105.660 as of the most recent actuarial valuation;**

(6) The total **post change** contribution rate expressed **both in estimated annual dollars and** as a percent of active employee payroll **[**which would be sufficient to adequately fund the proposed change in benefits**]**;

(7) A projection of at least ten years of the current plan provisions compared to the proposed change from the proposed effective date of such change including the total annual contribution requirements expressed both in estimated annual dollars and as a percent of active employee payroll, the actuarial value of assets, the market value of assets, the actuarial accrued liability, and the funded ratio as defined in section 105.660 except that such projection shall not apply to employers within the retirement system established in sections 70.600 to 70.755, but in lieu thereof shall include a prospective schedule of at least ten years containing current provision estimated employer contributions as a percent of payroll and estimated annual dollars, proposed provision estimated employer contributions as a percent of payroll and estimated annual dollars, and the resulting difference. Such schedule shall also contain the estimated difference between the actuarial accrued liability and actuarial value of assets for each scenario;

[(6)**] (8)** A statement as to whether such additional contributions are mandated by the proposed change;

[(7)**] (9)** A statement as to whether or not the proposed change would in any way impair the ability of the plan to meet the obligations thereof in effect at the time the proposal is made;

[(8)**] (10)** All assumptions relied upon to evaluate the present financial condition of the plan and all assumptions relied upon to evaluate the impact of the proposed change upon the financial condition of the plan, which shall be those assumptions used in preparing the most recent periodic actuarial valuation for the plan, unless the nature of the proposed change is such that alternative assumptions are clearly warranted, and shall be made and stated with respect to at least the following:

(a) Investment return;

(b) Pay increase;

(c) Mortality of employees and officials, and other persons who may receive benefits under the plan;

(d) Withdrawal (turnover);

(e) Disability;

(f) Retirement ages;

(g) Change in active employee group size;

[(9)**] (11)** The actuary shall certify that in the actuary's opinion the assumptions used for the valuation produce results which, in the aggregate, are reasonable;

[(10)**] (12)** A description of the actuarial funding method used in preparing the valuation including a description of the method used and period applied in amortizing unfunded actuarial accrued liabilities**[**;

(11) The increase in the total contribution amount required to adequately fund the proposed change in benefits, expressed in annual dollars as determined by multiplying the increase in total contribution rate by the active employee annual payroll used for this valuation**]**.

105.666. BOARD MEMBER EDUCATION PROGRAM, CURRICULUM, REQUIREMENTS — ANNUAL PENSION BENEFIT STATEMENT REQUIRED. — 1. Each plan shall, in conjunction with its staff and advisors, establish a board member education program, which shall be in effect on or after January 1, 2008. The curriculum shall include, at a minimum, education in the areas of duties and responsibilities of board members as trustees, ethics, governance process and procedures, pension plan design and administration of benefits, investments including but not limited to the fiduciary duties as defined under section 105.688, legal liability and risks associated with the administration of a plan, sunshine law requirements under chapter 610, actuarial principles and methods related to plan administration, and the role of staff and consultants in plan administration. Board members appointed or elected on a board on or after January 1, 2008, shall complete a board member education program designated to orient new board members in the areas described in this section within ninety days of becoming a new board member. Board members who have served one or more years shall attend at least **[**two**]**

a total of six hours of continuing education programs each year in the areas described in this section.

2. **Routine annual presentation by outside plan service providers shall not be used to satisfy board member education or continuing education program requirements contained in subsection 1 of this section. Such service providers may be utilized to perform education programs with such programs being separate and apart from routine annual presentations.**

3. Plan governing body or staff shall maintain a record of board member education including, but not limited to, date, time length, location, education material, and any facilitator utilized. The record shall be signed and attested to by the attending board member or board chairperson or designee. Such information shall be maintained for public record and disclosure for at least three years or until the expiration of such board member's term, whichever occurs first.

4. A board member who is knowingly not participating in the required education programs under this section may be removed from such board by a majority of the board members which shall result in a vacancy to be filled in accordance with plan provisions except that ex officio board members shall not be removed under this subsection.

5. Each plan shall, upon the request of any individual participant, provide an annual pension benefit statement which shall be written in a manner calculated to be understood by the average plan participant and may be delivered in written, electronic, or other appropriate form to the extent such form is reasonably accessible to each participant or beneficiary. Such pension benefit statement shall include, but not be limited to, accrued participant contributions to the plan, total benefits accrued, date first eligible for a normal retirement benefit, and projected benefit at normal retirement. Any plan failing to do so shall submit in writing to the joint committee on public employee retirement as to why the information may not be provided as requested.

105.670. COST STATEMENT AVAILABLE FOR INSPECTION — EFFECT OF CHANGES (GENERAL ASSEMBLY). — When the general assembly is the legislative body responsible for authorizing a substantial proposed change in plan benefits, a prepared statement regarding the cost of such change shall be made available for its consideration prior to taking final action. Such statement of cost shall be prepared in accordance with section 105.665 and shall be available as public information for at least five legislative days before **[**final**] third reading and** passage by either **[**house**] the house of representatives or the senate**. The speaker or president pro tem may refer such bill for reconsideration upon receipt of the actuary statement to the committee to which the bill was originally referred. The bill shall retain its place on the calendar as though it had not been recalled. The committee shall report the bill to the house or senate, respectively, within seven calendar days with its recommendations. If any additional substantial proposed change as defined in subdivision **[**(5)**] (10)** of section 105.660, in cost or benefits is made by either **[**house**] the house of representatives or the senate** or committee thereof, the actuary making the original cost statement shall amend the statement to reflect the additional features **prior to the proposal being truly agreed to and finally passed**. The plan shall make available to the actuary such information as is necessary to prepare such actuarial statement. The statement of cost shall be filed with the chief clerk of the Missouri house of representatives, the secretary of the senate, and with the joint committee on public employee retirement.

105.683. PLAN DEEMED DELINQUENT, WHEN, EFFECT OF. — Any plan, other than a plan created under sections 169.010 to 169.141 or sections 169.600 to 169.715, whose actuary determines that the plan has a funded ratio below sixty percent and the political subdivision has failed to make one hundred percent of the actuarially required contribution payment for five successive plan years with a descending funded ratio for five successive plan years **[**after August 28, 2007**]**, shall be deemed delinquent in the contribution payment and such delinquency in the contribution payment shall constitute a first lien on the funds of the political subdivision, and the

board as defined under section 105.660 is authorized to compel payment by application for a writ of mandamus; and in addition, such delinquency in the contribution payment shall be certified by the board to the state treasurer and director of the department of revenue. Until such delinquency in the contribution payment, together with regular interest, is satisfied, the state treasurer and director of the department of revenue shall withhold twenty-five percent of the certified contribution deficiency from the total moneys due the political subdivision from the state.

105.684. BENEFIT INCREASES PROHIBITED, WHEN — AMORTIZATION OF UNFUNDED ACTUARIAL ACCRUED LIABILITIES — ACCELERATED CONTRIBUTION SCHEDULE REQUIRED, WHEN. — 1. Notwithstanding any law to the contrary, no plan shall adopt or implement any additional benefit increase, supplement, enhancement, lump sum benefit payments to participants, or cost-of-living adjustment beyond current plan provisions in effect prior to August 28, 2007, **which would, in aggregate with any other proposed plan provisions, increase the plan's actuarial accrued liability when valued by an actuary using the same methods and assumptions as used in the most recent periodic valuation,** unless the plan's actuary determines that the funded ratio of the most recent periodic actuarial valuation and prior to such adoption or implementation is at least eighty percent and will not be less than seventy-five percent after such adoption or implementation. **Methods and assumptions used in valuing such proposed change may be modified if the nature is such that alternative assumptions are clearly warranted.**

2. The unfunded actuarial accrued liabilities associated with benefit changes described in this section shall be amortized over a period not to exceed twenty years for purposes of determining the contributions associated with the adoption or implementation of any such benefit increase, supplement, or enhancement.

3. Any plan with a funded ratio below sixty percent shall have the actuary prepare an accelerated contribution schedule based on a descending amortization period for inclusion in the actuarial valuation.

4. Nothing in this section shall apply to any plan established under chapter 70 or chapter 476.

5. Nothing in this section shall prevent a plan from adopting and implementing any provision necessary to maintain a plan's status as a qualified trust pursuant to 26 U.S.C. 401(a).

105.702. MINORITY AND WOMEN MONEY MANAGERS, BROKERS, AND INVESTMENT COUNSELORS, PROCUREMENT ACTION PLAN REQUIRED — ANNUAL REPORT. — **All retirement plans defined under section 105.660 shall develop a procurement action plan for utilization of minority and women money managers, brokers, and investment counselors. Such retirement systems shall report their progress annually to the joint committee on public employee retirement and the governor's minority advocacy commission.**

[21.564. STUDY BY JOINT COMMITTEE ON PUBLIC PENSIONS, RETIREMENT AND BENEFITS — REPORT TO GENERAL ASSEMBLY, WHEN. — The joint committee on public employee retirement shall conduct a study of pension, retirement and other benefits and the taxation thereof by the state of Missouri in relation to recent federal court decisions and shall report its findings and recommendations to the general assembly no later than the beginning of the second regular session of the eighty-fifth general assembly.**]**

Approved June 20, 2014

HB 1968 [SCS HB 1968]

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

Changes the laws regarding health organizations and risk-based capital

AN ACT to repeal sections 354.465, 375.1250, 375.1252, 375.1255, 375.1257, 375.1260, 375.1262, 375.1265, 375.1267, 375.1269, 375.1270, 375.1272, and 375.1275, RSMo, and to enact in lieu thereof thirteen new sections relating to health organizations.

SECTION
A. Enacting clause.
354.465. Examinations by division, when — costs, how paid.
375.1250. Definitions.
375.1252. RBC report, filed when — contents — formula, how determined — adjusted RBC report required, when.
375.1255. Company action level event, occurrence of, when — effect, duties of insurer or health organization — plan to be submitted, approval of, revision of, when — copies filed with all states in which insurer is authorized to transact business.
375.1257. Regulatory action level event, occurrence of, when — director's duties, corrective actions — plan to be submitted by insurer — or health organization.
375.1260. Authorized control level event, occurrence of, when — effect, duties of director.
375.1262. Mandatory control level event, occurrence of, when — effect, duties of director.
375.1265. Hearing, insurer's right to, when — procedures — judicial review of order, exceptions.
375.1267. Reports and plans confidential — RBC levels are regulatory tool, limitation on use.
375.1269. Provisions of law supplemental to other insurance laws — rules and regulations, authority — exemption of property — immunity from liability.
375.1270. Foreign insurers to submit RBC report to director, when — plan, submission of, when — powers of director.
375.1272. Notices, effective when.
375.1275. RBC reports for calendar year 1993, requirements — RBC reports for 1996, requirements — not applicable, when — 2014 filings for health organizations.

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

SECTION A. ENACTING CLAUSE. — Sections 354.465, 375.1250, 375.1252, 375.1255, 375.1257, 375.1260, 375.1262, 375.1265, 375.1267, 375.1269, 375.1270, 375.1272, and 375.1275, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 354.465, 375.1250, 375.1252, 375.1255, 375.1257, 375.1260, 375.1262, 375.1265, 375.1267, 375.1269, 375.1270, 375.1272, and 375.1275, to read as follows:

354.465. EXAMINATIONS BY DIVISION, WHEN — COSTS, HOW PAID. — 1. The director, or any duly appointed representative, may make an examination of the affairs of any health maintenance organization as often as he deems it necessary for the protection of the interests of the people of this state, but not less frequently than once every **[**three**]** **five** years.

2. All costs incurred by the state as a result of making examinations under this section shall be paid by the organization being examined and remitted **[**directly to the examiner or examiners conducting the examination on billings approved by the director**]** **as provided in section 374.160**.

375.1250. DEFINITIONS. — As used in sections 375.1250 to 375.1275 and in the Risk-Based Capital (RBC) Instructions, the following terms mean:

(1) "Adjusted RBC report", an RBC report which has been adjusted in accordance with subsection 5 of section 375.1252;

(2) "Corrective order", an order issued by the director specifying corrective actions which the director has determined are required;

(3) "Director", the director of the department of insurance, financial institutions and professional registration;

(4) **"Domestic health organization", a health organization domiciled in this state;**

(5) "Domestic insurer", any insurance company domiciled in this state;

(6) "Foreign health organization", a health organization that is licensed to do business in this state under chapter 354 but is not domiciled in this state;

[(5)**]** **(7)** "Foreign insurer", any insurance company which is licensed to do business in this state under section 375.791, but is not domiciled in this state;

(8) "Health organization", a health services corporation, health maintenance organization, limited health service organization, dental or vision plan, hospital, medical and dental indemnity or service corporation, or other managed care organization licensed under chapter 354, but not an organization that is defined as a life and health insurer or property and casualty insurer by this section and otherwise subject to either the life or property and casualty RBC requirements;

[(6)**]** **(9)** "Life and health insurer", any insurance company licensed under chapter 376 or a licensed property and casualty insurer writing only accident and health insurance;

[(7)**]** **(10)** "NAIC", the National Association of Insurance Commissioners;

[(8)**]** **(11)** "Negative trend", with respect to life and health insurers, a negative trend over a period of time, as determined in accordance with the trend test calculations included in the RBC instructions;

[(9)**]** **(12)** "Property and casualty insurer", any insurance company licensed under chapter 379, but such term shall not include monoline mortgage guaranty insurers, financial guaranty insurers and title insurers;

[(10)**]** **(13)** "RBC instructions", the RBC report, including risk-based capital instructions adopted by the NAIC, as such RBC instructions may be amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC;

[(11)**]** **(14)** "RBC level", an **[**insurer's**]** **insurer or health organization's** company action level RBC, regulatory action level RBC, authorized control level RBC, or mandatory control level RBC where:

(a) "Company action level RBC" means, with respect to any insurer **or health organization**, the product of 2.0 and its authorized control level RBC;

(b) "Regulatory action level RBC" means the product of 1.5 and its authorized control level RBC;

(c) "Authorized control level RBC" means the number determined under the risk-based capital formula in accordance with the RBC instruction; and

(d) "Mandatory control level RBC" means the product of .70 and the authorized control level RBC;

[(12)**]** **(15)** "RBC plan", a comprehensive financial plan containing the elements specified in subsection 2 of section 375.1255. If the director rejects the RBC plan and it is revised by the insurer **or health organization**, with or without the director's recommendation, the plan shall be called the "Revised RBC Plan";

[(13)**]** **(16)** "RBC report", the report required in section 375.1252;

[(14)**]** **(17)** "Total adjusted capital", the sum of:

(a) An **[**insurer's**]** **insurer or health organization's** statutory capital and surplus as determined in accordance with the statutory accounting applicable to the annual financial reports required to be filed under **chapter 354 for health organizations,** section 376.350 for domestic life and health insurers, section 379.105 for domestic property and casualty insurers and section 375.891 for foreign insurers; and

(b) Such other items, if any, as the RBC instructions may provide.

375.1252. RBC REPORT, FILED WHEN — CONTENTS — FORMULA, HOW DETERMINED — ADJUSTED RBC REPORT REQUIRED, WHEN. — 1. Every domestic insurer **and every health**

organization shall, on or prior to each March first, prepare and submit to the director a report of its RBC level as of the end of the calendar year just ended, in a form and containing such information as is required by the RBC instructions. In addition, every domestic insurer **and every domestic health organization** shall file its RBC report:

(1) With the NAIC in accordance with the RBC instructions; and

(2) With the chief insurance regulatory official in any state in which the insurer **or health organization** is authorized to do business, if such official has notified the insurer **or health organization** of its request in writing, in which case the insurer **or health organization** shall file its RBC report not later than the later of:

(a) Fifteen days from the receipt of notice to file its RBC report with that state; or

(b) The filing date.

2. A life and health insurer's RBC shall be determined in accordance with the formula set forth in the RBC instructions. The formula shall take into account and may adjust for the covariance between:

(1) The risk with respect to the insurer's assets;

(2) The risk of adverse insurance experience with respect to the insurer's insurance liabilities and obligations;

(3) The interest rate risk with respect to the insurer's business; and

(4) All other business risks and such other relevant risks as are set forth in the RBC instructions. Such risks shall be determined in each case by applying the factors in the manner set forth in the RBC instructions.

3. A property and casualty insurer's RBC shall be determined in accordance with the formula set forth in the RBC instructions. The formula shall take into account and may adjust for the covariance between:

(1) Asset risk;

(2) Credit risk;

(3) Underwriting risk; and

(4) All other business risks and such other relevant risks as are set forth in the RBC instructions. Such risks shall be determined in each case by applying the factors in the manner set forth in the RBC instructions.

4. **A health organization's RBC shall be determined in accordance with the formula set forth in the RBC instructions. The formula shall take into account and may adjust for the covariance between:**

(1) Asset risk;

(2) Credit risk;

(3) Underwriting risk; and

(4) All other business risks and such other relevant risks as are set forth in the RBC instructions. Such risks shall be determined in each case by applying the factors in the manner set forth in the RBC instructions.

5. Insurers **and health organizations** should seek to maintain capital above the RBC levels required by sections 375.1250 to 375.1275, as such additional capital helps to secure an insurer against various risks inherent in, or affecting, the business of insurance and not accounted for or partially measured by the risk-based capital requirements contained in sections 375.1250 to 375.1275.

[5.**] 6.** If a domestic insurer **or domestic health organization** files an RBC report which in the judgment of the director is inaccurate, then the director shall adjust the RBC report to correct the inaccuracy and shall notify the insurer **or health organization** of the adjustment. The notice shall contain a statement of the reason for the adjustment. An RBC report as so adjusted is referred to as an "adjusted RBC report".

375.1255. COMPANY ACTION LEVEL EVENT, OCCURRENCE OF, WHEN — EFFECT, DUTIES OF INSURER OR HEALTH ORGANIZATION — PLAN TO BE SUBMITTED, APPROVAL OF,

REVISION OF, WHEN — COPIES FILED WITH ALL STATES IN WHICH INSURER IS AUTHORIZED TO TRANSACT BUSINESS. — 1. "Company action level event" means with respect to any insurer **or health organization**, any of the following events:

(1) The filing of an RBC report by the insurer **or health organization** which indicates that:

(a) The **[**insurer's**]** **insurer or health organization's** total adjusted capital is greater than or equal to its regulatory action level RBC but less than its company action level RBC; or

(b) If a life and health insurer, the insurer has total adjusted capital which is greater than or equal to its company action level RBC but less than the product of its authorized control level **[**capital**]** **RBC** and **[**2.5**]** **3.0**, and has a negative trend;

(c) If a property and casualty insurer, the insurer has total adjusted capital which is greater than or equal to its company action level RBC but less than the product of its authorized control level RBC and 3.0 and triggers the trend test determined in accordance with the trend test calculation included in the property and casualty RBC report instructions;

(d) If a health organization has total adjusted capital which is greater than or equal to its company action level RBC but less than the product of its authorized control level RBC and 3.0 and triggers the trend test determined in accordance with the trend test calculation included in the health RBC instructions;

(2) The notification by the director to the insurer **or health organization** of an adjusted RBC report that indicates the event in paragraph (a), (b), **[**or**]** (c)**, or (d)** of subdivision (1) of this subsection, if the insurer **or health organization** does not challenge the adjusted RBC report pursuant to section 375.1265;

(3) If pursuant to section 375.1265 the insurer **or health organization** challenges an adjusted RBC report that indicates the event described in subdivision (1) of this subsection, the notification by the director to the insurer **or health organization** that the director has, after a hearing, rejected the **[**insurer's**]** **insurer or health organization's** challenge.

2. In the event of a company action level event the insurer **or health organization** shall prepare and submit to the director an RBC plan which shall:

(1) Identify the conditions in the insurer **or health organization** which contribute to the company action level event;

(2) Contain proposals of corrective actions which the insurer **or health organization** intends to take and would be expected to result in the elimination of the company action level event;

(3) **(a)** Provide projections of the insurer's financial results in the current year and at least the four succeeding years, both in the absence of proposed corrective actions and giving effect to the proposed corrective actions, including projections of statutory operating income, net income, capital or surplus. The projections for both new and renewal business might include separate projections for each major line of business and separately identify each significant income, expense and benefit component;

(b) Provide projections of the health organization's financial results in the current year and at least the two succeeding years, both in the absence of proposed corrective actions and giving effect to the proposed corrective actions, including projections of statutory balance sheets, operating income, net income, capital and surplus, and RBC levels. The projections for both new and renewal business might include separate projections for each major line of business and separately identify each significant income, expense, and benefit component;

(4) Identify the key assumptions impacting the **[**insurer's**]** **insurer or health organization's** projections and the sensitivity of the projections to the assumptions; and

(5) Identify the quality of, and problems associated with, the **[**insurer's**]** **insurer or health organization's** business, including but not limited to its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business and use of reinsurance in each case, if any.

3. The RBC plan shall be submitted:

(1) Within forty-five days of the company action level event; or

(2) If the insurer **or health organization** challenges an adjusted RBC report pursuant to section 375.1265 within forty-five days after notification to the insurer **or health organization** that the director has, after a hearing, rejected the **[**insurer's**]** **insurer or health organization's** challenge.

4. Within sixty days after the submission by an insurer **or health organization** of an RBC plan to the director, the director shall notify the insurer **or health organization** whether the RBC plan shall be implemented or is, in the judgment of the director, unsatisfactory. If the director determines the RBC plan is unsatisfactory, the notification to the insurer **or health organization** shall set forth the reasons for the determination, and may set forth proposed revisions which will render the RBC plan satisfactory, in the judgment of the director. Upon notification from the director, the insurer **or health organization** shall prepare a revised RBC plan, which may incorporate by reference any revisions proposed by the director, and shall submit the revised RBC plan to the director:

(1) Within forty-five days after the notification from the director; or

(2) If the insurer **or health organization** challenges the notification from the director pursuant to section 375.1265, within forty-five days after a notification to the insurer **or health organization** that the director has, after a hearing, rejected the **[**insurer's**]** **insurer or health organization's** challenge.

5. In the event of a notification by the director to an insurer **or health organization** that the **[**insurer's**]** **insurer or health organization's** RBC plan or revised RBC plan is unsatisfactory, the director may at the director's discretion, subject to the **[**insurer's**]** **insurer or health organization's** right to a hearing under section 375.1265, specify in the notification that the notification constitutes a regulatory action level event.

6. Every domestic insurer **or domestic health organization** that files an RBC plan or revised RBC plan with the director shall file a copy of the RBC plan or revised RBC plan with the chief insurance regulatory official in any state in which the insurer is authorized to do business if:

(1) Such state has an RBC provision, substantially similar to subsection 1 of section 375.1267; and

(2) The chief insurance regulatory official of that state has notified the insurer **or health organization** of its request for the filing in writing, in which case the insurer **or organization** shall file a copy of the RBC plan or revised RBC plan in that state no later than the later of:

(a) Fifteen days after the receipt of notice to file a copy of its RBC plan or revised RBC plan with the state; or

(b) The date on which the RBC plan or revised RBC plan is filed under subsection 3 or 4 of this section.

375.1257. REGULATORY ACTION LEVEL EVENT, OCCURRENCE OF, WHEN — DIRECTOR'S DUTIES, CORRECTIVE ACTIONS — PLAN TO BE SUBMITTED BY INSURER — OR HEALTH ORGANIZATION. — 1. "Regulatory action level event" means, with respect to any insurer **or health organization**, any of the following events:

(1) The filing of an RBC report by the insurer **or health organization** which indicates that the **[**insurer's**]** **insurer or health organization's** total adjusted capital is greater than or equal to its authorized control level RBC but less than its regulatory action level RBC;

(2) The notification by the director to an insurer **or health organization** of an adjusted RBC report that indicates the event in subdivision (1) of this subsection, if the insurer **or health organization** does not challenge the adjusted RBC report under section 375.1265;

(3) If, pursuant to section 375.1265, the insurer **or health organization** challenges an adjusted RBC report that indicates the event in subdivision (1) of this subsection, the notification by the director to the insurer **or health organization** that the director has, after a hearing, rejected the **[**insurer's**]** **insurer or health organization's** challenge;

(4) The failure of the insurer **or health organization** to file an RBC report by the filing date, unless the insurer **or health organization** has provided an explanation for such failure which is satisfactory to the director and has cured the failure within ten days after the filing date;

(5) The failure of the insurer **or health organization** to submit an RBC plan to the director within the time period set forth in subsection 3 of section 375.1255;

(6) Notification by the director to the insurer **or health organization** that:

(a) The RBC plan or revised RBC plan submitted by the insurer **or health organization** is, in the judgment of the director, unsatisfactory; and

(b) Such notification constitutes a regulatory action level event with respect to the insurer **or health organization**, where the insurer **or health organization** has not challenged the determination under section 375.1265;

(7) If, pursuant to section 375.1265, the insurer **or health organization** challenges a determination by the director under subdivision (6) of this subsection, the notification by the director to the insurer **or health organization** that the director has, after a hearing, rejected such challenge;

(8) Notification by the director to the insurer **or health organization** that the insurer **or health organization** has failed to adhere to its RBC plan or revised RBC plan, but only if such failure has a substantial adverse effect on the ability of the insurer **or health organization** to eliminate the company action level event in accordance with its RBC plan or revised RBC plan and the director has so stated in the notification provided the insurer **or health organization** has not challenged the determination under section 375.1265; or

(9) If, pursuant to section 375.1265, the insurer **or health organization** challenges a determination by the director under subdivision (8) of this subsection the notification by the director to the insurer **or health organization** that the director has, after a hearing, rejected the challenge.

2. In the event of a regulatory action level event the director shall:

(1) Require the insurer **or health organization** to prepare and submit an RBC plan or, if applicable, a revised RBC plan;

(2) Perform such examination or analysis as the director deems necessary of the assets, liabilities and operations of the insurer **or health organization**, including a review of its RBC plan or revised RBC plan; and

(3) Subsequent to the examination or analysis, issue an order specifying such corrective actions as the director shall determine are required.

3. In determining corrective actions, the director may take into account such factors as are deemed relevant with respect to the insurer **or health organization** based upon the director's examination or analysis of the assets, liabilities and operations of the insurer **or health organization**, including, but not limited to, the results of any sensitivity tests undertaken pursuant to the RBC instructions. The RBC plan or revised RBC plan shall be submitted:

(1) Within forty-five days after the occurrence of the regulatory action level event;

(2) If the insurer **or health organization** challenges an adjusted RBC report pursuant to section 375.1265, within forty-five days after the notification to the insurer **or health organization** that the director has, after a hearing, rejected the **[**insurer's**]** **insurer or health organization's** challenge; or

(3) If the insurer **or health organization** challenges a revised RBC plan under section 375.1265, within forty-five days after notification to the insurer **or health organization** that the director has, after a hearing, rejected the challenge.

4. The director may retain actuaries and investment experts and other consultants as may be necessary in the judgment of the director to review the **[**insurer's**]** **insurer or health organization's** RBC plan or revised RBC plan, examine or analyze the assets, liabilities and operations of the insurer **or health organization** and formulate the corrective order with respect to the insurer **or health organization**. The fees, costs and expenses relating to the consultants shall be borne by the affected insurer **or health organization**.

375.1260. AUTHORIZED CONTROL LEVEL EVENT, OCCURRENCE OF, WHEN — EFFECT, DUTIES OF DIRECTOR. — 1. "Authorized control level event" means any of the following events:

(1) The filing of an RBC report by the insurer **or health organization** which indicates that the **[**insurer's**]** **insurer or health organization's** total adjusted capital is greater than or equal to its mandatory control level RBC but less than its authorized control level RBC;

(2) The notification by the director to the insurer **or health organization** of an adjusted RBC report that indicates the event in subdivision (1) of this subsection provided the insurer **or health organization** does not challenge the adjusted RBC report under section 375.1265;

(3) If, pursuant to section 375.1265, the insurer **or health organization** challenges an adjusted RBC report that indicates the event in subdivision (1) of this subsection, notification by the director to the insurer **or health organization** that the director has, after a hearing, rejected the **[**insurer's**]** **insurer or health organization's** challenge;

(4) The failure of the insurer **or health organization** to respond, in a manner satisfactory to the director, to a corrective order provided the insurer **or health organization** has not challenged the corrective order under section 375.1265; or

(5) If the insurer **or health organization** has challenged a corrective order under section 375.1265 and the director has, after a hearing, rejected the challenge or modified the corrective order, the failure of the insurer **or health organization** to respond, in a manner satisfactory to the director, to the corrective order subsequent to rejection or modification by the director.

2. In the event of an authorized control level event the director shall:

(1) Take such actions as are required under section 375.1257 regarding an insurer **or health organization** with respect to which a regulatory action level event has occurred; or

(2) If the director deems it to be in the best interests of the policyholders and creditors of the insurer **or health organization** and of the public, take such actions as are necessary to cause the insurer **or health organization** to be placed under regulatory control under sections 375.1150 to 375.1246. In the event the director takes such actions, the authorized control level event shall be deemed sufficient grounds for the director to take action pursuant to sections 375.1150 to 375.1246, and the director shall have the rights, powers and duties with respect to the insurer **or health organization** as are set forth in sections 375.1150 to 375.1246. In the event the director takes actions under this subdivision pursuant to an adjusted RBC report, the insurer **or health organization** shall be entitled to such protections as are afforded to insurers **or health organizations** pursuant to the provisions of sections 375.570 to 375.640, provided that the adjusted RBC report shall be deemed a report of examination.

375.1262. MANDATORY CONTROL LEVEL EVENT, OCCURRENCE OF, WHEN — EFFECT, DUTIES OF DIRECTOR. — 1. "Mandatory control level event" means, with respect to any insurer **or health organization**, any of the following events:

(1) The filing of an RBC report which indicates that the **[**insurer's**]** **insurer or health organization's** total adjusted capital is less than its mandatory control level RBC;

(2) Notification by the director to the insurer **or health organization** of an adjusted RBC report that indicates the event in subdivision (1) of this subsection if the insurer **or health organization** does not challenge the adjusted RBC report under section 375.1265; or

(3) If, pursuant to section 375.1265, the insurer **or health organization** challenges an adjusted RBC report that indicates the event in subdivision (1) of this subsection, notification by the director to the insurer **or health organization** that the director has, after a hearing, rejected the **[**insurer's**]** **insurer or health organization's** challenge.

2. In the event of a mandatory control level event the director shall take such actions as are necessary to place the insurer **or health organization** under regulatory control under sections 375.1150 to 375.1246, or, in the case of a property and casualty insurer which is writing no business, may allow the insurer to continue its existing policies until expiration of the policy term and settlement of all outstanding claims under the supervision of the director. In either event, the

mandatory control level event shall be deemed sufficient grounds for the director to take action pursuant to sections 375.1150 to 375.1246, and the director shall have the rights, powers and duties with respect to the insurer **or health organization** as are set forth in sections 375.1150 to 375.1246. In the event the director takes actions pursuant to an adjusted RBC report, the insurer **or health organization** shall be entitled to such protections as are afforded to insurers **or health organizations** pursuant to the provisions of sections 375.570 to 375.640, if the adjusted RBC report shall be deemed a report of examination. Notwithstanding any other provision of this subsection to the contrary, the director may forego action for up to ninety days after the mandatory control level event if the director finds there is a reasonable expectation that the mandatory control level event be eliminated within the ninety-day period.

375.1265. HEARING, INSURER'S RIGHT TO, WHEN — PROCEDURES — JUDICIAL REVIEW OF ORDER, EXCEPTIONS. — 1. Upon:

(1) Notification to an insurer **or health organization** by the director of an adjusted RBC report; or

(2) Notification to an insurer **or health organization** by the director that:

(a) The **[**insurer's**]** **insurer or health organization's** RBC plan or revised RBC plan is unsatisfactory; and

(b) Such notification constitutes a regulatory action level event with respect to such insurer **or health organization**; or

(3) Notification to any insurer **or health organization** by the director that the insurer **or health organization** has failed to adhere to its RBC plan or revised RBC plan and that such failure has a substantial adverse effect on the ability of the insurer **or health organization** to eliminate the company action level event with respect to the insurer **or health organization** in accordance with its RBC plan or revised RBC plan; or

(4) Notification to an insurer **or health organization** by the director of a corrective order with respect to the insurer **or health organization**; the insurer **or health organization** shall have the right to a confidential departmental hearing, with a record made, at which the insurer **or health organization** may challenge any determination or action by the director. The insurer **or health organization** shall notify the director of its request for a hearing within five days after the notification by the director pursuant to this subsection. Upon receipt of the **[**insurer's**]** **insurer or health organization's** request for a hearing, the director shall set a date for the hearing, which date shall be no less than ten nor more than thirty days after the date of the **[**insurer's**]** **insurer or health organization's** request.

2. An insurer **or health organization** aggrieved by an order of the director after a hearing pursuant to subsection 1 of this section may obtain judicial review of such order pursuant to sections 536.100 to 536.140, except that:

(1) No insurer **or health organization** shall be deemed aggrieved unless the director has either:

(a) Made the director's order public; or

(b) Taken action pursuant to sections 375.1250 to 375.1275 or pursuant to sections 375.1165 to 375.1246; or

(c) Issued a corrective order after the hearing;

(2) If the director has taken action as described in paragraph (b) of subdivision (1) of subsection 1 of this section, judicial review pursuant to this section shall be consolidated with and be pendent to the action pursuant to the director's action.

3. There shall be no judicial review of any action by the director pursuant to sections 375.1250 to 375.1275 except as provided in subsection 2 of this section.

375.1267. REPORTS AND PLANS CONFIDENTIAL — RBC LEVELS ARE REGULATORY TOOL, LIMITATION ON USE. — 1. All RBC reports, to the extent the information therein is not required to be set forth in a publicly available annual statement schedule, and RBC plans,

including the results or report of any examination or analysis of an insurer **or health organization** performed pursuant to this section and any corrective order issued by the director pursuant to examination or analysis, with respect to any **domestic** insurer **[**or**],** foreign insurer**, health organization, or foreign health organization** which are filed with the director constitute information that might be damaging to the **domestic** insurer **[**or**],** foreign insurer**, health organization, or foreign health organization** if made available to its competitors, and therefore shall be kept confidential by the director. This information shall neither be made public nor be subject to subpoena, other than by the director and then only for the purpose of enforcement actions taken by the director pursuant to sections 375.1250 to 375.1275 or any other provision of the insurance laws of this state.

2. The comparison of an **[**insurer's**] insurer or health organization's** total adjusted capital to any of its RBC levels is a regulatory tool which may indicate the need for possible corrective action with respect to the insurer **or health organization**, and is not intended as a means to rank insurers **or health organizations** generally. Therefore, except as otherwise required pursuant to the provisions of sections 375.1250 to 375.1275, the making, publishing, disseminating, circulating or placing before the public, or causing directly or indirectly, the making, publishing, disseminating, circulating or placing before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing an assertion, representation or statement with regard to the RBC levels of any insurer **or health organization**, or of any component derived in the calculations by any insurer **or health organization**, agent, broker**,** or other person engaged in any manner in the business of insurance would be misleading and is therefore an unfair trade practice as defined in section 375.934; except that if any materially false statement with respect to the comparison regarding an **[**insurer's**] insurer or health organization's** total adjusted capital to its RBC levels or an inappropriate comparison of any other amount to the **[**insurer's**] insurer or health organization's** RBC levels is published in any written publication and the insurer **or health organization** is able to demonstrate with substantial proof the falsity of such statement, or the inappropriateness, as the case may be, then the insurer **or health organization** may publish an announcement in a written publication if the sole purpose of the announcement is to rebut the materially false statement.

3. The RBC instructions, RBC reports, adjusted RBC reports, RBC plans and revised RBC plans are intended solely for use by the director in monitoring the solvency of insurers **and health organizations** and the need for possible corrective action with respect to insurers **or health organizations** and shall not be used by the director for ratemaking nor considered or introduced as evidence in any rate proceeding nor used by the director to calculate or derive any elements of an appropriate premium level or rate of return for any line of insurance which an insurer**, health organization,** or any affiliate is authorized to write.

4. In order to assist in the performance of the director's duties, the director:

(1) May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection 1 of this section, with other state, federal, and international regulatory agencies, with the National Association of Insurance Commissioners and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material, or other information;

(2) May receive documents, materials, or other information, including otherwise confidential and privileged documents, materials, or information from the National Association of Insurance Commissioners and its affiliates and subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information; and

(3) May enter into agreements governing sharing and use of information consistent with this subsection.

5. No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the director under this section or as a result of sharing as authorized in subdivision (3) of subsection 4 of this section.

375.1269. PROVISIONS OF LAW SUPPLEMENTAL TO OTHER INSURANCE LAWS — RULES AND REGULATIONS, AUTHORITY — EXEMPTION OF PROPERTY — IMMUNITY FROM LIABILITY. — 1. The provisions of sections 375.1250 to 375.1275 are supplemental to any other provisions of the laws of this state, and shall not preclude or limit any other powers or duties of the director under such laws, including but not limited to sections 375.1150 to 375.1246.

2. The director may adopt reasonable rules and regulations necessary for the implementation of sections 375.1250 to 375.1275. No rule or regulation promulgated under authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

3. The director may exempt from the provisions of sections 375.1250 to 375.1275 any domestic property and casualty insurer which:

(1) Writes direct business only in this state;

(2) Writes direct annual premiums of two million dollars or less; and

(3) Assumes no reinsurance in excess of five percent of direct premium written.

4. **The director may exempt from the provisions of sections 375.1250 to 375.1275 any domestic health organization that:**

(1) Writes direct business only in this state; and

(2) Writes direct annual premiums of two million dollars or less; and

(3) Assumes no reinsurance in excess of five percent of direct premium written; or

(4) Is a limited health service organization that covers less than two thousand lives.

5. There shall be no liability on the part of, and no cause of action shall arise against, the director, the department of insurance, financial institutions and professional registration or its employees or agents for any action taken by them in the performance of their powers and duties under sections 375.1250 to 375.1275.

375.1270. FOREIGN INSURERS TO SUBMIT RBC REPORT TO DIRECTOR, WHEN — PLAN, SUBMISSION OF, WHEN — POWERS OF DIRECTOR. — 1. Any foreign insurer **or foreign health organization** shall, upon the written request of the director, submit to the director an RBC report as of the end of the calendar year just ended the later of:

(1) The date an RBC report would be required to be filed by **[**an**]** **a domestic** insurer **or domestic health organization** under sections 375.1250 to 375.1275; or

(2) Fifteen days after the request is received by the foreign insurer **or foreign health organization**.

2. Any foreign insurer **or foreign health organization** shall, at the written request of the director, promptly submit to the director a copy of any RBC plan that is filed with the chief insurance regulatory official of any other state.

3. In the event of a company action level event regulatory action level event or authorized control level event with respect to any foreign insurer **or foreign health organization** as determined under the RBC statute applicable in the state of domicile of the insurer or, if no RBC provision is in force in that state, under the provisions of sections 375.1250 to 375.1275, if the chief insurance regulatory official of the state of domicile of the foreign insurer **or foreign health organization** fails to require the foreign insurer **or foreign health organization** to file an RBC plan in the manner specified under the RBC statute or, if no RBC provision is in force in the state, under section 375.1255, the director may require the foreign insurer **or foreign health organization** to file an RBC plan with the director. In such event, the failure of the foreign

insurer **or foreign health organization** to file an RBC plan with the director shall be grounds to order the insurer **or foreign health organization** to cease and desist from writing new insurance business in this state, pursuant to the procedures set forth in section 374.046.

4. In the event of a mandatory control level event with respect to any foreign insurer **or foreign health organization**, if no domiciliary receiver has been appointed with respect to the foreign insurer **or foreign health organization** under the rehabilitation and liquidation statute applicable in the state of domicile of the foreign insurer **or foreign health organization**, the director may make application to the circuit court of Cole County permitted pursuant to section 375.1234 with respect to the liquidation of property of foreign insurers **or foreign health organizations** found in this state, and the occurrence of the mandatory control level event shall be considered adequate grounds for the application.

375.1272. NOTICES, EFFECTIVE WHEN. — All notices by the director to an insurer **or health organization** which may result in regulatory action under sections 375.1250 to 375.1275 shall be effective upon dispatch if transmitted by registered or certified mail, or in the case of any other transmission shall be effective upon the **[**insurer's**] insurer or health organization's** receipt of such notice.

375.1275. RBC REPORTS FOR CALENDAR YEAR 1993, REQUIREMENTS — RBC REPORTS FOR 1996, REQUIREMENTS — NOT APPLICABLE, WHEN — 2014 FILINGS FOR HEALTH ORGANIZATIONS. — 1. For RBC reports required to be filed by life and health insurers with respect to 1993, the following requirements shall apply in lieu of the provisions of section 375.1255:

(1) In the event of a company action level event with respect to an insurer, the director shall take no regulatory action;

(2) In the event of a regulatory action level event pursuant to section 375.1257, the director shall take the actions required pursuant to section 375.1255;

(3) In the event of a regulatory action level event pursuant to section 375.1257 or an authorized control level event, the director shall take the actions required pursuant to section 375.1257 with respect to the insurer;

(4) In the event of a mandatory control level event with respect to an insurer, the director shall take the actions required pursuant to section 375.1260 with respect to the insurer.

2. For RBC reports required to be filed by property and casualty insurers with respect to 1996, the following requirements shall apply in lieu of the provisions of sections 375.1255 to 375.1262:

(1) In the event of a company action level event with respect to a domestic insurer, the director shall take no regulatory action under sections 375.1250 to 375.1275;

(2) In the event of a regulatory action level event under subdivision (1), (2) or (3) of subsection 1 of section 375.1257, the director shall take the actions required under section 375.1255;

(3) In the event of a regulatory action level event under subdivision (4), (5), (6), (7), (8) or (9) of subsection 1 of section 375.1257 or an authorized control level event, the director shall take the actions required under section 375.1257, with respect to the insurer;

(4) In the event of a mandatory control level event, the director shall take the actions required under section 375.1260 with respect to the insurer.

3. **For RBC reports required to be filed by health organizations with respect to 2014, the following requirements shall apply in lieu of the provisions of sections 375.1255 to 375.1262:**

(1) In the event of a company action level event with respect to a domestic health organization, the director shall take no regulatory action;

(2) In the event of a regulatory action level event under subdivisions (1) to (3) of subsection 1 of section 375.1257, the director shall take the actions required pursuant to section 375.1255;

(3) In the event of a regulatory action level event under subdivisions (4) to (9) of subsection 1 of section 375.1257 or an authorized control level event, the director shall take the actions required under section 375.1257 with respect to the health organization;

(4) In the event of a mandatory control level event with respect to a health organization, the director shall take the actions required under section 375.1260 with respect to the health organization.

4. The actions required under sections 375.1255 to 375.1262 or this section shall not apply to any insurer operating under the provisions of sections 287.900 to 287.920 which is under any order of supervision, including waivers of requirements for capital and surplus, issued or commenced by the director prior to August 28, 1996. This provision shall remain in effect until such order or proceeding expires or is otherwise terminated by further order of the director.

Approved June 19, 2014

HB 2029 [HB 2029]

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

Authorizes a sales tax exemption for replacement parts to aircraft

AN ACT to repeal section 144.030, RSMo, and to enact in lieu thereof one new section relating to sales and use tax exemptions for aircraft.

SECTION
A. Enacting clause.
144.030. Exemptions from state and local sales and use taxes.

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

SECTION A. ENACTING CLAUSE. — Section 144.030, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 144.030, to read as follows:

144.030. EXEMPTIONS FROM STATE AND LOCAL SALES AND USE TAXES. — 1. There is hereby specifically exempted from the provisions of sections 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525 such retail sales as may be made in commerce between this state and any other state of the United States, or between this state and any foreign country, and any retail sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws of the United States of America, and such retail sales of tangible personal property which the general assembly of the state of Missouri is prohibited from taxing or further taxing by the constitution of this state.

2. There are also specifically exempted from the provisions of the local sales tax law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.761 and from the computation of the tax levied, assessed or payable pursuant to the local sales tax law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.745:

(1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of such excise tax is refunded pursuant to section 142.824; or upon the sale at retail of fuel to be consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted into foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will

be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at retail; economic poisons registered pursuant to the provisions of the Missouri pesticide registration law (sections 281.220 to 281.310) which are to be used in connection with the growth or production of crops, fruit trees or orchards applied before, during, or after planting, the crop of which when harvested will be sold at retail or will be converted into foodstuffs which are to be sold ultimately in processed form at retail;

(2) Materials, manufactured goods, machinery and parts which when used in manufacturing, processing, compounding, mining, producing or fabricating become a component part or ingredient of the new personal property resulting from such manufacturing, processing, compounding, mining, producing or fabricating and which new personal property is intended to be sold ultimately for final use or consumption; and materials, including without limitation, gases and manufactured goods, including without limitation slagging materials and firebrick, which are ultimately consumed in the manufacturing process by blending, reacting or interacting with or by becoming, in whole or in part, component parts or ingredients of steel products intended to be sold ultimately for final use or consumption;

(3) Materials, replacement parts and equipment purchased for use directly upon, and for the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock or aircraft engaged as common carriers of persons or property;

(4) Motor vehicles registered in excess of fifty-four thousand pounds, and the trailers pulled by such motor vehicles, that are actually used in the normal course of business to haul property on the public highways of the state, and that are capable of hauling loads commensurate with the motor vehicle's registered weight; and the materials, replacement parts, and equipment purchased for use directly upon, and for the repair and maintenance or manufacture of such vehicles. For purposes of this subdivision "motor vehicle" and "public highway" shall have the meaning as ascribed in section 390.020;

(5) Replacement machinery, equipment, and parts and the materials and supplies solely required for the installation or construction of such replacement machinery, equipment, and parts, used directly in manufacturing, mining, fabricating or producing a product which is intended to be sold ultimately for final use or consumption; and machinery and equipment, and the materials and supplies required solely for the operation, installation or construction of such machinery and equipment, purchased and used to establish new, or to replace or expand existing, material recovery processing plants in this state. For the purposes of this subdivision, a "material recovery processing plant" means a facility that has as its primary purpose the recovery of materials into a useable product or a different form which is used in producing a new product and shall include a facility or equipment which are used exclusively for the collection of recovered materials for delivery to a material recovery processing plant but shall not include motor vehicles used on highways. For purposes of this section, the terms motor vehicle and highway shall have the same meaning pursuant to section 301.010. Material recovery is not the reuse of materials within a manufacturing process or the use of a product previously recovered. The material recovery processing plant shall qualify under the provisions of this section regardless of ownership of the material being recovered;

(6) Machinery and equipment, and parts and the materials and supplies solely required for the installation or construction of such machinery and equipment, purchased and used to establish new or to expand existing manufacturing, mining or fabricating plants in the state if such machinery and equipment is used directly in manufacturing, mining or fabricating a product which is intended to be sold ultimately for final use or consumption;

(7) Tangible personal property which is used exclusively in the manufacturing, processing, modification or assembling of products sold to the United States government or to any agency of the United States government;

(8) Animals or poultry used for breeding or feeding purposes, or captive wildlife;

(9) Newsprint, ink, computers, photosensitive paper and film, toner, printing plates and other machinery, equipment, replacement parts and supplies used in producing newspapers published for dissemination of news to the general public;

(10) The rentals of films, records or any type of sound or picture transcriptions for public commercial display;

(11) Pumping machinery and equipment used to propel products delivered by pipelines engaged as common carriers;

(12) Railroad rolling stock for use in transporting persons or property in interstate commerce and motor vehicles licensed for a gross weight of twenty-four thousand pounds or more or trailers used by common carriers, as defined in section 390.020, in the transportation of persons or property;

(13) Electrical energy used in the actual primary manufacture, processing, compounding, mining or producing of a product, or electrical energy used in the actual secondary processing or fabricating of the product, or a material recovery processing plant as defined in subdivision (5) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical energy so used exceeds ten percent of the total cost of production, either primary or secondary, exclusive of the cost of electrical energy so used or if the raw materials used in such processing contain at least twenty-five percent recovered materials as defined in section 260.200. There shall be a rebuttable presumption that the raw materials used in the primary manufacture of automobiles contain at least twenty-five percent recovered materials. For purposes of this subdivision, "processing" means any mode of treatment, act or series of acts performed upon materials to transform and reduce them to a different state or thing, including treatment necessary to maintain or preserve such processing by the producer at the production facility;

(14) Anodes which are used or consumed in manufacturing, processing, compounding, mining, producing or fabricating and which have a useful life of less than one year;

(15) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring air pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices;

(16) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring water pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices;

(17) Tangible personal property purchased by a rural water district;

(18) All amounts paid or charged for admission or participation or other fees paid by or other charges to individuals in or for any place of amusement, entertainment or recreation, games or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a municipality or other political subdivision where all the proceeds derived therefrom benefit the municipality or other political subdivision and do not inure to any private person, firm, or corporation, provided, however, that a municipality or other political subdivision may enter into revenue-sharing agreements with private persons, firms, or corporations providing goods or services, including management services, in or for the place of amusement, entertainment or recreation, games or athletic events, and provided further that nothing in this subdivision shall exempt from tax any amounts retained by any private person, firm, or corporation under such revenue-sharing agreement;

(19) All sales of insulin and prosthetic or orthopedic devices as defined on January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically including hearing aids and hearing aid supplies and all sales of drugs which may be legally dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to administer those items, including samples and materials used to manufacture samples which may be dispensed by a practitioner authorized to dispense such samples and all sales or rental of medical oxygen, home respiratory equipment and accessories, hospital beds and accessories and ambulatory aids, all sales or rental of manual and powered wheelchairs, stairway lifts, Braille writers, electronic Braille equipment and, if purchased or rented by or on behalf of a person with

one or more physical or mental disabilities to enable them to function more independently, all sales or rental of scooters, reading machines, electronic print enlargers and magnifiers, electronic alternative and augmentative communication devices, and items used solely to modify motor vehicles to permit the use of such motor vehicles by individuals with disabilities or sales of over-the-counter or nonprescription drugs to individuals with disabilities, and drugs required by the Food and Drug Administration to meet the over-the-counter drug product labeling requirements in 21 CFR 201.66, or its successor, as prescribed by a health care practitioner licensed to prescribe;

(20) All sales made by or to religious and charitable organizations and institutions in their religious, charitable or educational functions and activities and all sales made by or to all elementary and secondary schools operated at public expense in their educational functions and activities;

(21) All sales of aircraft to common carriers for storage or for use in interstate commerce and all sales made by or to not-for-profit civic, social, service or fraternal organizations, including fraternal organizations which have been declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, in their civic or charitable functions and activities and all sales made to eleemosynary and penal institutions and industries of the state, and all sales made to any private not-for-profit institution of higher education not otherwise excluded pursuant to subdivision (20) of this subsection or any institution of higher education supported by public funds, and all sales made to a state relief agency in the exercise of relief functions and activities;

(22) All ticket sales made by benevolent, scientific and educational associations which are formed to foster, encourage, and promote progress and improvement in the science of agriculture and in the raising and breeding of animals, and by nonprofit summer theater organizations if such organizations are exempt from federal tax pursuant to the provisions of the Internal Revenue Code and all admission charges and entry fees to the Missouri state fair or any fair conducted by a county agricultural and mechanical society organized and operated pursuant to sections 262.290 to 262.530;

(23) All sales made to any private not-for-profit elementary or secondary school, all sales of feed additives, medications or vaccines administered to livestock or poultry in the production of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber, all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying agricultural crops, natural gas used in the primary manufacture or processing of fuel ethanol as defined in section 142.028, natural gas, propane, and electricity used by an eligible new generation cooperative or an eligible new generation processing entity as defined in section 348.432, and all sales of farm machinery and equipment, other than airplanes, motor vehicles and trailers, and any freight charges on any exempt item. As used in this subdivision, the term "feed additives" means tangible personal property which, when mixed with feed for livestock or poultry, is to be used in the feeding of livestock or poultry. As used in this subdivision, the term "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and other assorted pesticide carriers used to improve or enhance the effect of a pesticide and the foam used to mark the application of pesticides and herbicides for the production of crops, livestock or poultry. As used in this subdivision, the term "farm machinery and equipment" means new or used farm tractors and such other new or used farm machinery and equipment and repair or replacement parts thereon and any accessories for and upgrades to such farm machinery and equipment, rotary mowers used exclusively for agricultural purposes, and supplies and lubricants used exclusively, solely, and directly for producing crops, raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for ultimate sale at retail, including field drain tile, and one-half of each purchaser's purchase of diesel fuel therefor which is:

(a) Used exclusively for agricultural purposes;

(b) Used on land owned or leased for the purpose of producing farm products; and

(c) Used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail;

(24) Except as otherwise provided in section 144.032, all sales of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil for domestic use and in any city not within a county, all sales of metered or unmetered water service for domestic use:

(a) "Domestic use" means that portion of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil, and in any city not within a county, metered or unmetered water service, which an individual occupant of a residential premises uses for nonbusiness, noncommercial or nonindustrial purposes. Utility service through a single or master meter for residential apartments or condominiums, including service for common areas and facilities and vacant units, shall be deemed to be for domestic use. Each seller shall establish and maintain a system whereby individual purchases are determined as exempt or nonexempt;

(b) Regulated utility sellers shall determine whether individual purchases are exempt or nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file with and approved by the Missouri public service commission. Sales and purchases made pursuant to the rate classification "residential" and sales to and purchases made by or on behalf of the occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, shall be considered as sales made for domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales tax upon the entire amount of purchases classified as nondomestic use. The seller's utility service rate classification and the provision of service thereunder shall be conclusive as to whether or not the utility must charge sales tax;

(c) Each person making domestic use purchases of services or property and who uses any portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day of the fourth month following the year of purchase, and without assessment, notice or demand, file a return and pay sales tax on that portion of nondomestic purchases. Each person making nondomestic purchases of services or property and who uses any portion of the services or property so purchased for domestic use, and each person making domestic purchases on behalf of occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, under a nonresidential utility service rate classification may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for credit or refund to the director of revenue and the director shall give credit or make refund for taxes paid on the domestic use portion of the purchase. The person making such purchases on behalf of occupants of residential apartments or condominiums shall have standing to apply to the director of revenue for such credit or refund;

(25) All sales of handicraft items made by the seller or the seller's spouse if the seller or the seller's spouse is at least sixty-five years of age, and if the total gross proceeds from such sales do not constitute a majority of the annual gross income of the seller;

(26) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of revenue shall promulgate rules pursuant to chapter 536 to eliminate all state and local sales taxes on such excise taxes;

(27) Sales of fuel consumed or used in the operation of ships, barges, or waterborne vessels which are used primarily in or for the transportation of property or cargo, or the conveyance of persons for hire, on navigable rivers bordering on or located in part in this state, if such fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such river;

(28) All sales made to an interstate compact agency created pursuant to sections 70.370 to 70.441 or sections 238.010 to 238.100 in the exercise of the functions and activities of such agency as provided pursuant to the compact;

(29) Computers, computer software and computer security systems purchased for use by architectural or engineering firms headquartered in this state. For the purposes of this subdivision, "headquartered in this state" means the office for the administrative management of at least four integrated facilities operated by the taxpayer is located in the state of Missouri;

(30) All livestock sales when either the seller is engaged in the growing, producing or feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering or leasing of such livestock;

(31) All sales of barges which are to be used primarily in the transportation of property or cargo on interstate waterways;

(32) Electrical energy or gas, whether natural, artificial or propane, water, or other utilities which are ultimately consumed in connection with the manufacturing of cellular glass products or in any material recovery processing plant as defined in subdivision (5) of this subsection;

(33) Notwithstanding other provisions of law to the contrary, all sales of pesticides or herbicides used in the production of crops, aquaculture, livestock or poultry;

(34) Tangible personal property and utilities purchased for use or consumption directly or exclusively in the research and development of agricultural/biotechnology and plant genomics products and prescription pharmaceuticals consumed by humans or animals;

(35) All sales of grain bins for storage of grain for resale;

(36) All sales of feed which are developed for and used in the feeding of pets owned by a commercial breeder when such sales are made to a commercial breeder, as defined in section 273.325, and licensed pursuant to sections 273.325 to 273.357;

(37) All purchases by a contractor on behalf of an entity located in another state, provided that the entity is authorized to issue a certificate of exemption for purchases to a contractor under the provisions of that state's laws. For purposes of this subdivision, the term "certificate of exemption" shall mean any document evidencing that the entity is exempt from sales and use taxes on purchases pursuant to the laws of the state in which the entity is located. Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's exemption certificate as evidence of the exemption. If the exemption certificate issued by the exempt entity to the contractor is later determined by the director of revenue to be invalid for any reason and the contractor has accepted the certificate in good faith, neither the contractor or the exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result of use of the invalid exemption certificate. Materials shall be exempt from all state and local sales and use taxes when purchased by a contractor for the purpose of fabricating tangible personal property which is used in fulfilling a contract for the purpose of constructing, repairing or remodeling facilities for the following:

(a) An exempt entity located in this state, if the entity is one of those entities able to issue project exemption certificates in accordance with the provisions of section 144.062; or

(b) An exempt entity located outside the state if the exempt entity is authorized to issue an exemption certificate to contractors in accordance with the provisions of that state's law and the applicable provisions of this section;

(38) All sales or other transfers of tangible personal property to a lessor who leases the property under a lease of one year or longer executed or in effect at the time of the sale or other transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441 or sections 238.010 to 238.100;

(39) Sales of tickets to any collegiate athletic championship event that is held in a facility owned or operated by a governmental authority or commission, a quasi-governmental agency, a state university or college or by the state or any political subdivision thereof, including a municipality, and that is played on a neutral site and may reasonably be played at a site located outside the state of Missouri. For purposes of this subdivision, "neutral site" means any site that is not located on the campus of a conference member institution participating in the event;

(40) All purchases by a sports complex authority created under section 64.920, and all sales of utilities by such authority at the authority's cost that are consumed in connection with the operation of a sports complex leased to a professional sports team;

(41) **[**Beginning January 1, 2009, but not after January 1, 2015,**]** **All** materials, replacement parts, and equipment purchased for use directly upon, and for the modification, replacement, repair, and maintenance of aircraft, aircraft power plants, and aircraft accessories;

(42) Sales of sporting clays, wobble, skeet, and trap targets to any shooting range or similar places of business for use in the normal course of business and money received by a shooting range or similar places of business from patrons and held by a shooting range or similar place of business for redistribution to patrons at the conclusion of a shooting event.

3. Any ruling, agreement, or contract, whether written or oral, express or implied, between a person and this state's executive branch, or any other state agency or department, stating, agreeing, or ruling that such person is not required to collect sales and use tax in this state despite the presence of a warehouse, distribution center, or fulfillment center in this state that is owned or operated by the person or an affiliated person shall be null and void unless it is specifically approved by a majority vote of each of the houses of the general assembly. For purposes of this subsection, an "affiliated person" means any person that is a member of the same controlled group of corporations as defined in Section 1563(a) of the Internal Revenue Code of 1986, as amended, as the vendor or any other entity that, notwithstanding its form of organization, bears the same ownership relationship to the vendor as a corporation that is a member of the same controlled group of corporations as defined in Section 1563(a) of the Internal Revenue Code, as amended.

Approved July 8, 2014

HB 2040 [HCS HB 2040]

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

Allows first responders to administer naloxone to patients suspected of a narcotic or opiate overdose

AN ACT to amend chapter 190, RSMo, by adding thereto one new section relating to drug overdose treatment.

SECTION
A. Enacting clause.
190.255. Naloxone, first responder may administer, when — definition.

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

SECTION A. ENACTING CLAUSE. — Chapter 190, RSMo, is amended by adding thereto one new section, to be known as section 190.255, to read as follows:

190.255. NALOXONE, FIRST RESPONDER MAY ADMINISTER, WHEN — DEFINITION. — 1. Any qualified first responder may obtain and administer naloxone to a person suffering from an apparent narcotic or opiate-related overdose in order to revive the person.

2. Any licensed drug distributor or pharmacy in Missouri may sell naloxone to qualified first responder agencies to allow the agency to stock naloxone for the administration of such drug to persons suffering from an apparent narcotic or opiate overdose in order to revive the person.

3. For the purposes of this section, "qualified first responder" shall mean any state and local law enforcement agency staff, fire department personnel, fire district personnel, or licensed emergency medical technician who is acting under the directives and established protocols of a medical director of a local licensed ground ambulance service licensed under section 190.109 who comes in contact with a person suffering from an apparent narcotic or opiate-related overdose and who has received training in recognizing and responding to a narcotic or opiate overdose and the administration of naloxone to a person suffering from an apparent narcotic or opiate-related overdose. "Qualified first responder agencies" shall mean any state or local law enforcement agency, fire department, or ambulance service that provides documented training to its staff related to the administration of naloxone in an apparent narcotic or opiate overdose situation.

4. A qualified first responder shall only administer naloxone by such means as the qualified first responder has received training for the administration of naloxone.

Approved July 3, 2014

HB 2077 [HB 2077]

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

Creates the Surplus Revenue Fund

AN ACT to amend chapter 21, RSMo, by adding thereto one new section relating to the surplus revenue fund.

SECTION

A. Enacting clause.

21.930. Fund created, certain general revenue collections to be deposited, use of moneys — certain refunds to be paid in full, when.

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

SECTION A. ENACTING CLAUSE. — Chapter 21, RSMo, is amended by adding thereto one new section, to be known as section 21.930, to read as follows:

21.930. FUND CREATED, CERTAIN GENERAL REVENUE COLLECTIONS TO BE DEPOSITED, USE OF MONEYS — CERTAIN REFUNDS TO BE PAID IN FULL, WHEN. — 1. There is hereby created in the state treasury the "Surplus Revenue Fund", which shall consist of money collected under subsection 2 of this section. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

2. If, during the two-year fiscal period beginning July 1, 2013, and ending June 30, 2015, Missouri general revenue collections net of refunds exceed sixteen billion eight hundred thirty-four million dollars, the state treasurer shall deposit from moneys that otherwise would have been deposited into the general revenue fund an amount not to exceed two hundred fifteen million dollars. Moneys in the surplus revenue fund shall be subject to appropriation by the general assembly.

3. Notwithstanding any other provision of law to the contrary, refunds owed to Missouri taxpayers for the two-year fiscal period beginning July 1, 2013, and ending June 30, 2015, shall be paid in full on or before June 30, 2015.

Approved July 2, 2014

HB 2141 [SCS HCS HB 2141]

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

Modifies measurement standards and tax rates for compressed and liquefied natural gas as a motor fuel

AN ACT to repeal sections 142.803, 142.869, 305.230, 323.010, 323.025, 323.050, 413.225, and 413.226, RSMo, and to enact in lieu thereof eight new sections relating to alternative motor fuel, with an effective date and an existing penalty provision.

SECTION
A. Enacting clause.
142.803. Imposition of tax on fuel, amount — collection and precollection of tax.
142.869. Alternative fuel decal fee in lieu of tax — decal — penalty.
305.230. Aeronautics program, highways and transportation commission to administer — purposes — aviation trust fund, administration, uses — appropriation — immediate availability of funds in the event of a disaster.
323.010. Definitions.
323.025. Missouri propane gas commission created, powers and duties, members, terms, meetings — executive director — secretary to keep records — surety bond for members — annual report.
323.050. Municipal ordinances in conflict with this chapter prohibited.
413.225. Fees — rates — due at time of registration, inspection or calibration, failure to pay fee, effect, penalty.
413.226. Weight and measure devices law not applicable to certain devices — applicability to certain devices.
B. Delayed effective date.

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

SECTION A. ENACTING CLAUSE. — Sections 142.803, 142.869, 305.230, 323.010, 323.025, 323.050, 413.225, and 413.226, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 142.803, 142.869, 305.230, 323.010, 323.025, 323.050, 413.225, and 413.226, to read as follows:

142.803. IMPOSITION OF TAX ON FUEL, AMOUNT — COLLECTION AND PRECOLLECTION OF TAX. — 1. A tax is levied and imposed on all motor fuel used or consumed in this state as follows:

(1) Motor fuel, seventeen cents per gallon;

(2) Alternative fuels, not subject to the decal fees as provided in section 142.869, with a power potential equivalent of motor fuel. In the event alternative fuel, which is not commonly sold or measured by the gallon, is used in motor vehicles on the highways of this state, the director is authorized to assess and collect a tax upon such alternative fuel measured by the nearest power potential equivalent to that of one gallon of regular grade gasoline. The determination by the director of the power potential equivalent of such alternative fuel shall be prima facie correct;

(3) Aviation fuel used in propelling aircraft with reciprocating engines, nine cents per gallon as levied and imposed by section 155.080 to be collected as required under this chapter**;**

(4) Compressed natural gas fuel, five cents per gasoline gallon equivalent until December 31, 2019, eleven cents per gasoline gallon equivalent from January 1, 2020 until

December 31, 2024, and then seventeen cents per gasoline gallon equivalent thereafter. The gasoline gallon equivalent and method of sale for compressed natural gas shall be as published by the National Institute of Standards and Technology in Handbooks 44 and 130, and supplements thereto or revisions thereof. In the absence of such standard or agreement, the gasoline gallon equivalent and method of sale for compressed natural gas shall be equal to five and sixty-six-hundredths pounds of compressed natural gas. All applicable provisions contained in this chapter governing administration, collections, and enforcement of the state motor fuel tax shall apply to the tax imposed on compressed natural gas, including but not limited to licensing, reporting, penalties, and interest;

(5) Liquefied natural gas fuel, five cents per diesel gallon equivalent until December 31, 2019, eleven cents per diesel gallon equivalent from January 1, 2020 until December 31, 2024, and then seventeen cents per diesel gallon equivalent thereafter. The diesel gallon equivalent and method of sale for liquefied natural gas shall be as published by the National Institute of Standards and Technology in Handbooks 44 and 130, and supplements thereto or revisions thereof.

In the absence of such standard or agreement, the diesel gallon equivalent and method of sale for liquefied natural gas shall be equal to six and six-hundredths pounds of liquefied natural gas. All applicable provisions contained in this chapter governing administration, collections, and enforcement of the state motor fuel tax shall apply to the tax imposed on liquefied natural gas, including but not limited to licensing, reporting, penalties, and interest;

(6) If a natural gas, compressed natural gas, or liquefied natural gas connection is used for fueling motor vehicles and for another use, such as heating, the tax imposed by this section shall apply to the entire amount of natural gas, compressed natural gas, or liquefied natural gas used unless an approved separate metering and accounting system is in place.

2. All taxes, surcharges and fees are imposed upon the ultimate consumer, but are to be precollected as described in this chapter, for the facility and convenience of the consumer. The levy and assessment on other persons as specified in this chapter shall be as agents of this state for the precollection of the tax.

142.869. ALTERNATIVE FUEL DECAL FEE IN LIEU OF TAX — DECAL — PENALTY. — 1. The tax imposed by this chapter shall not apply to passenger motor vehicles, buses as defined in section 301.010, or commercial motor vehicles registered in this state which are powered by alternative fuel, and for which a valid decal has been acquired as provided in this section**, provided that sales made to alternative fueled vehicles powered by compressed natural gas or liquefied natural gas that do not meet the requirements of subsection 3 of this section shall be taxed exclusively pursuant to subdivisions (4) and (5) of subsection 1 of section 142.803, respectively**. The owners or operators of such motor vehicles shall, in lieu of the tax imposed by section 142.803, pay an annual alternative fuel decal fee as follows: seventy-five dollars on each passenger motor vehicle, school bus as defined in section 301.010, and commercial motor vehicle with a licensed gross vehicle weight of eighteen thousand pounds or less; one hundred dollars on each motor vehicle with a licensed gross weight in excess of eighteen thousand pounds but not more than thirty-six thousand pounds used for farm or farming transportation operations and registered with a license plate designated with the letter "F"; one hundred fifty dollars on each motor vehicle with a licensed gross vehicle weight in excess of eighteen thousand pounds but less than or equal to thirty-six thousand pounds, and each passenger-carrying motor vehicle subject to the registration fee provided in sections 301.059, 301.061 and 301.063; two hundred fifty dollars on each motor vehicle with a licensed gross weight in excess of thirty-six thousand pounds used for farm or farming transportation operations and registered with a license plate designated with the letter "F"; and one thousand dollars on each motor vehicle with a licensed gross vehicle weight in excess of thirty-six thousand pounds.

Notwithstanding provisions of this section to the contrary, motor vehicles licensed as historic under section 301.131 which are powered by alternative fuel shall be exempt from both the tax imposed by this chapter and the alternative fuel decal requirements of this section.

2. Except interstate fuel users and vehicles licensed under a reciprocity agreement as defined in section 142.617, the tax imposed by section 142.803 shall not apply to motor vehicles registered outside this state which are powered by alternative fuel **other than compressed natural gas and liquefied natural gas**, and for which a valid temporary alternative fuel decal has been acquired as provided in this section. The owners or operators of such motor vehicles shall, in lieu of the tax imposed by section 142.803, pay a temporary alternative fuel decal fee of eight dollars on each such vehicle. Such decals shall be valid for a period of fifteen days from the date of issuance and shall be attached to the lower right-hand corner of the front windshield on the motor vehicle for which it was issued. Such decal and fee shall not be transferable. All proceeds from such decal fees shall be deposited as specified in section 142.345. Alternative fuel dealers selling such decals in accordance with rules and regulations prescribed by the director shall be allowed to retain fifty cents for each decal fee timely remitted to the director.

3. **Owners or operators of passenger motor vehicles, buses as defined in section 301.010, or commercial motor vehicles registered in this state which are powered by compressed natural gas or liquefied natural gas who have installed a compressed natural gas fueling station or liquefied natural gas fueling station used solely to fuel the motor vehicles they own or operate as of December 31, 2015, may continue to apply for and use the alternative fuel decal in lieu of paying the tax imposed under subdivisions (4) and (5) of subsection 1 of section 142.803. Owners or operators of compressed natural gas fueling stations or liquefied natural gas fueling stations whose vehicles bear an alternative fuel decal shall be prohibited from selling or providing compressed natural gas or liquefied natural gas to any motor vehicle they do not own or operate. Owners or operators of motor vehicles powered by compressed natural gas or liquefied natural gas bearing an alternative fuel decal after January 1, 2016 that decline to renew the alternative fuel decals for such motor vehicles shall no longer be eligible to apply for and use alternative fuel decals under this subsection. Any compressed natural gas or liquefied natural gas obtained at any fueling station not owned by the owner or operator of the motor vehicle bearing an alternative fuel decal shall be subject to the tax under subdivisions (4) and (5) of subsection 1 of section 142.803.**

4. The director shall annually, on or before January thirty-first of each year, collect or cause to be collected from owners or operators of the motor vehicles specified in subsection 1 of this section the annual decal fee. Applications for such decals shall be supplied by the department of revenue. In the case of a motor vehicle which is not in operation by January thirty-first of any year, a decal may be purchased for a fractional period of such year, and the amount of the decal fee shall be reduced by one-twelfth for each complete month which shall have elapsed since the beginning of such year.

[4.**]** **5.** Upon the payment of the fee required by subsection 1 of this section, the director shall issue a decal, which shall be valid for the current calendar year and shall be attached to the lower right-hand corner of the front windshield on the motor vehicle for which it was issued.

[5.**]** **6.** The decal fee paid pursuant to subsection 1 of this section for each motor vehicle shall be transferable upon a change of ownership of the motor vehicle and, if the LP gas or natural gas equipment is removed from a motor vehicle upon a change of ownership and is reinstalled in another motor vehicle, upon such reinstallation. Such transfers shall be accomplished in accordance with rules and regulations promulgated by the director.

[6.**]** **7.** It shall be unlawful for any person to operate a motor vehicle required to have an alternative fuel decal upon the highways of this state without a valid decal.

[7.**]** **8.** No person shall cause to be put, or put, LP gas **[**or natural gas**]** into the fuel supply receptacle of a motor vehicle required to have an alternative fuel decal unless the motor vehicle has a valid decal attached to it. Sales of fuel placed in the supply receptacle of a motor vehicle

displaying such decal shall be recorded upon an invoice, which invoice shall include the decal number, the motor vehicle license number and the number of gallons placed in such supply receptacle.

[8.**]** **9.** Any person violating any provision of this section is guilty of an infraction and shall, upon conviction thereof, be fined five hundred dollars.

[9.**]** **10.** Motor vehicles displaying a valid alternative fuel decal are exempt from the licensing and reporting requirements of this chapter.

305.230. AERONAUTICS PROGRAM, HIGHWAYS AND TRANSPORTATION COMMISSION TO ADMINISTER — PURPOSES — AVIATION TRUST FUND, ADMINISTRATION, USES — APPROPRIATION — IMMEDIATE AVAILABILITY OF FUNDS IN THE EVENT OF A DISASTER. — 1. The state highways and transportation commission shall administer an aeronautics program within this state. The commission shall encourage, foster and participate with the political subdivisions of this state in the promotion and development of aeronautics. The commission may provide financial assistance in the form of grants from funds appropriated for such purpose to any political subdivision or instrumentality of this state acting independently or jointly or to the owner or owners of any privately owned airport designated as a reliever by the Federal Aviation Administration for the planning, acquisition, construction, improvement or maintenance of airports, or for other aeronautical purposes.

2. Any political subdivision or instrumentality of this state or the owner or owners of any privately owned airport designated as a reliever by the Federal Aviation Administration receiving state funds for the purchase, construction, or improvement, except maintenance, of an airport shall agree before any funds are paid to it to control by ownership or lease the airport for a period equal to the useful life of the project as determined by the commission following the last payment of state or federal funds to it. In the event an airport authority ceases to exist for any reason, this obligation shall be carried out by the governing body which created the authority.

3. Unless otherwise provided, grants to political subdivisions, instrumentalities or to the owner or owners of any privately owned airport designated as a reliever by the Federal Aviation Administration shall be made from the aviation trust fund. In making grants, the commission shall consider whether the local community has given financial support to the airport in the past. Priority shall be given to airports with local funding for the past five years with no reduction in such funding. The aviation trust fund is a revolving trust fund exempt from the provisions of section 33.080 relating to the transfer of funds to the general revenue funds of the state by the state treasurer. All interest earned upon the balance in the aviation trust fund shall be deposited to the credit of the same fund.

4. The moneys in the aviation trust fund shall be administered by the commission and, when appropriated, shall be used for the following purposes:

(1) As matching funds on an up to ninety percent state/ten percent local basis, except in the case where federal funds are being matched, when the ratio of state and local funds used to match the federal funds shall be fifty percent state/fifty percent local:

(a) For preventive maintenance of runways, taxiways and aircraft parking areas, and for emergency repairs of the same;

(b) For the acquisition of land for the development and improvement of airports;

(c) For the earthwork and drainage necessary for the construction, reconstruction or repair of runways, taxiways, and aircraft parking areas;

(d) For the construction, or restoration of runways, taxiways, or aircraft parking areas;

(e) For the acquisition of land or easements necessary to satisfy Federal Aviation Administration safety requirements;

(f) For the identification, marking or removal of natural or manmade obstructions to airport control zone surfaces and safety areas;

(g) For the installation of runway, taxiway, boundary, ramp, or obstruction lights, together with any work directly related to the electrical equipment;

(h) For the erection of fencing on or around the perimeter of an airport;

(i) For purchase, installation or repair of air navigational and landing aid facilities and communication equipment;

(j) For engineering related to a project funded under the provisions of this section and technical studies or consultation related to aeronautics;

(k) For airport planning projects including master plans and site selection for development of new airports, for updating or establishing master plans **[**and**] ,** airport layout plans**, airport business plans, and strategic plans** at existing airports;

(l) For the purchase, installation, or repair of safety equipment and such other capital improvements and equipment as may be required for the safe and efficient operation of the airport;

(m) If at least **[**six**] four** million **five hundred thousand** dollars is deposited into the aviation trust fund in the previous calendar year, **[**up to two million dollars may be expended annually upon**] funds may be spent for** the study or promotion of expanded domestic or international scheduled commercial service, the study or promotion of intrastate scheduled commercial service, **the promotion of aviation in the state,** or to assist airport sponsors participating in a federally funded air service program supporting intrastate scheduled commercial service**, subject to the following provisions:**

a. No more than two million dollars may be spent from the aviation trust fund for the purposes provided in this paragraph in any calendar year; and

b. The commission shall be required to expend at least four million dollars of the annual, calendar year deposits into the aviation trust fund for purposes other than the purposes described in this paragraph;

(2) As total funds, with no local match:

(a) For providing air markers, windsocks, and other items determined to be in the interest of the safety of the general flying public;

(b) For the printing and distribution of state aeronautical charts and state airport directories on an annual basis, and a newsletter on a quarterly basis or the publishing and distribution of any public interest information deemed necessary by the commission;

(c) For the conducting of aviation safety workshops;

(d) For the promotion of aerospace education;

(3) As total funds with no local match, up to five hundred thousand dollars per year may be used for the cost of operating existing air traffic control towers that do not receive funding from the Federal Aviation Administration or the United States Department of Defense, except no more than one hundred sixty-seven thousand dollars per year may be used for any individual control tower;

(4) As total funds with a local match, up to five hundred thousand dollars per year may be used for air traffic control towers partially funded by the federal government under a cost-share program. Any expenditures under this program require a nonfederal match, comprised of a ratio of fifty percent state and fifty percent local funds. No more than one hundred thousand dollars per year may be expended for any individual control tower.

5. In the event of a natural or manmade disaster which closes any runway or renders inoperative any electronic or visual landing aid at an airport, any funds appropriated for the purpose of capital improvements or maintenance of airports may be made immediately available for necessary repairs once they are approved by the commission. For projects designated as emergencies by the commission, all requirements relating to normal procurement of engineering and construction services are waived.

6. As used in this section, the term "instrumentality of the state" shall mean any state educational institution as defined in section 176.010 or any state agency which owned or operated an airport on January 1, 1997, and continues to own or operate such airport.

323.010. DEFINITIONS. — For the purposes of this chapter, the following words and phrases shall mean:

(1) "Affiliated industry", any person or firm engaged in the manufacturing, assembling, and marketing of appliances, containers, and products used in the propane industry, the interstate or intrastate transportation or storage of propane, the installation or design of propane piping systems, or other such affiliation with the commercial, residential, or agricultural use of propane by consumers in Missouri;

(2) **"Autogas", propane used solely as the primary motor fuel for internal combustion engines for vehicles in highway use;**

(3) "Commission", the Missouri propane **[**gas**]** **safety** commission;

[(3)**]** **(4)** "Compressed natural gas" (CNG), a mixture of hydrocarbon gases and vapors, consisting principally of methane in gaseous form that has been compressed for use as a vehicular fuel;

[(4) "Director", the executive director of the commission;**]**

(5) "Dispensing station", a system of compressors, safety devices, cylinders, piping, fittings, valves, regulators, gauges, relief devices, vents, installation fixtures and other compressed natural gas equipment intended for use in conjunction with motor vehicle fueling by compressed natural gas but does not include a natural gas pipeline located upstream of the inlet of the compressor;

(6) "Liquefied petroleum gas", any material which is composed predominantly of any of the following hydrocarbons, or mixtures of the same: propane, propylene, butanes (normal butane or isobutane), and butylenes;

(7) "Motor vehicle", all vehicles except those operated on rails which are propelled by internal combustion engines and are used or designed for use in the transportation of a person or persons or property;

(8) "Person", any individual, group of individuals, partnership, association, cooperative, corporation, or any other entity;

(9) "Producer", the owner of the propane at the time it is recovered at a manufacturing facility, irrespective of the state where production occurs;

(10) "Propane", propane, butane, mixtures of propane and butane, and liquefied petroleum gas, as defined by the National Fire Protection Association Standard 58 for the storage and handling of liquefied petroleum gases;

(11) "Public member", a member of the commission who is a resident of Missouri, is a user of odorized propane, and is not related by the third degree of consanguinity to any retailer or wholesale distributor of propane;

(12) "Retail marketer", a business engaged primarily in selling propane gas, its appliances, and equipment to the ultimate consumer or to retail propane dispensers;

(13) "Wholesaler" or "reseller", a seller of propane who is not a producer and who does not sell propane to the ultimate consumer.

323.025. MISSOURI PROPANE GAS COMMISSION CREATED, POWERS AND DUTIES, MEMBERS, TERMS, MEETINGS — EXECUTIVE DIRECTOR — SECRETARY TO KEEP RECORDS — SURETY BOND FOR MEMBERS — ANNUAL REPORT. — 1. There is hereby created within the department of agriculture the "Missouri Propane **[**Gas**]** **Safety** Commission", which shall constitute a body corporate and politic, an independent instrumentality exercising essential public functions. The commission shall ensure the administration and enforcement of this chapter and all rules and regulations and orders promulgated thereunder. The powers of the commission shall be vested in nine commissioners, who shall be residents of this state, to be appointed by the governor, by and with the advice and consent of the senate. The commission shall consist of one member representing multistate retail marketers of propane, one member representing wholesalers or resellers of propane, one member from a county of the third classification representing retail marketers of propane, one member who is affiliated with the Mechanical Contractors Association in Missouri, one member affiliated with the Plumbing Industry Council, one member representing an affiliated industry, one member representing the department of agriculture, **[**one member representing the department of natural resources**]** **the Missouri state**

fire marshal or his or her designee, and one public member. The commissioners annually shall elect from among their number a **[**chairman**]** **chairperson** and a vice **[**chairman**]** **chairperson**, and such other officers as they may deem necessary.

2. The commissioners shall serve five-year terms, with each term beginning July first and ending on June thirtieth. However, of the commissioners first appointed, two shall be appointed for a term of two years, two shall be appointed for a term of three years, two shall be appointed for a term of four years, and three shall be appointed for a term of five years. Each commissioner appointed thereafter shall be appointed for a term ending five years from the date of expiration of the term for which his **or her** predecessor was appointed. A person appointed to fill a vacancy prior to the expiration of such a term shall be appointed for the remainder of the term. No commissioner appointed by the governor under this section shall serve more than one full term. For those commissioners first appointed, if such commissioner serves a term less than five years, each shall be eligible to serve one full five-year term. Each commissioner shall hold office for the term of such appointment and until such successor has been appointed and qualified.

3. Other than the public member, commission members shall be full-time employees or owners of businesses in the industry or the agency they represent.

4. Notwithstanding the provisions of any other law to the contrary:

(1) No officer or employee of this state shall be deemed to have forfeited or shall forfeit such office or employment by reason of his acceptance of membership on the commission or such service to the commission;

(2) It shall not constitute a conflict of interest for **[**a director, officer, or**]** **an** employee of any company selling propane at retail or wholesale, or engaged in the manufacture, sale, installation, or distribution of propane-use equipment, the contracting of propane piping systems, or in the transportation, storage, or marketing of propane, or any other firm, person, or corporation, to serve as a member of the commission, provided such trustee, director, officer, or employee shall abstain from deliberation, action, and vote by the commission in each instance where the business affiliation or public office association of any such trustee, director, officer, or employee is involved.

5. Commissioners shall receive no compensation for the performance of their duties under this section, but each commissioner shall be reimbursed from the funds of the commission for his or her actual and necessary expenses incurred in carrying out his or her official duties.

6. Meetings shall be held at the call of the **[**chairman**]** **chairperson** or whenever two commissioners so request. Five commissioners of the commission shall constitute a quorum, and any action taken by the commission under the provisions of this chapter may be authorized by resolution approved by a majority, but not less than four of the commissioners present at any regular or special meeting. No vacancy in the membership of the commission shall impair the right of a quorum to exercise all the rights and perform all the duties of the commission.

7. The commissioners shall employ an executive director. The executive director also shall serve as the secretary for the commission and shall administer, manage, and direct the affairs and business of the commission, subject to the policies, control, and direction of the commissioners. The commission may employ technical experts and such other officers, agents, and employees as deemed necessary, and may fix their qualifications, duties, and compensation.

8. The secretary shall keep a record of the proceedings of the commission and shall be custodian of all books, documents, and papers filed with the commission and of its minute book and seal. The secretary shall have the authority to cause to be made copies of all minutes and other records and documents of the commission and to give certificates, under the seal of the commission, to the effect that such copies are true copies, and all persons dealing with the commission may rely upon such certificates. Resolutions of the persons dealing with the commission need not be published or posted unless the commission shall so direct.

9. Before entering into his or her duties, each commissioner of the commission shall execute a surety bond for fifty thousand dollars, and the **executive** director shall execute a surety

bond for one hundred thousand dollars or, in lieu thereof, the **[**chairman**]** **chairperson** of the commission shall execute a blanket bond covering all members, the **executive** director, and the employees or other officers of the commission. Each surety bond shall be conditioned on the faithful performance of the duties of the office or offices covered, shall be executed by a surety company authorized to transact business in this state as surety, shall be approved by the attorney general, and shall be filed in the office of the secretary of state. The cost of each such bond shall be paid by the commission.

10. At the beginning of each fiscal year, the commission shall prepare and submit for public comment a budget plan, including the probable costs of all programs, projects, and contracts and a recommended rate of assessment as may be necessary to cover such costs. Publication of the proposed budget in the Missouri Register for at least thirty days shall constitute appropriate public notice. The commission shall approve or modify the budget following the public comment period.

11. The commission shall, following the close of each fiscal year, submit an annual report of its activities for the preceding year to the department of agriculture, the governor, and the general assembly. Each report shall set forth a complete operating and financial statement for the commission during the fiscal year it covers. At least once in each year, an independent certified public accountant shall audit the books and accounts of the commission.

12. The commission shall have the power necessary to:

(1) Sue and be sued in its own name;

(2) Have an official seal and alter the same at pleasure;

(3) Have perpetual succession;

(4) Maintain an office at such place or places within this state as the commission may designate;

(5) Conduct hearings and mediate disputes arising from the enforcement of this chapter;

(6) Disperse funds for its lawful activities and fix salaries and wages of its employees; and

(7) Exercise all powers necessary or convenient to accomplish its purposes.

13. The commission shall have the following duties:

(1) Develop comprehensive plans and programs for the prevention, control and abatement of propane-related accidents in Missouri;

(2) Mandate a comprehensive certification training program based on the department of agriculture's existing liquified petroleum gas certification and training program;

(3) Promulgate by rule by August 28, 2010, a statewide code for the installation of propane-related equipment;

(4) Advise, consult, and cooperate with other agencies of the state, the federal government, other states, and interstate agencies, as well as with affected groups, political subdivisions, and industries in furtherance of the purposes of this chapter;

(5) Accept gifts, contributions, donations, loans and grants from the federal government and from other sources, public or private, for carrying out any of its functions. Such funds shall not be expended for other than the purposes for which provided;

(6) Exercise general supervision of the administration and enforcement of this chapter and all rules, regulations, and orders promulgated hereunder;

(7) Suspend any registration filed under this chapter granted to persons or companies doing business under the requirements of this chapter, if such registrant is in violation of any provision of this chapter;

(8) Represent the state of Missouri in all matters pertaining to this chapter, including negotiation of interstate compact agreements;

(9) To do any act necessary or convenient to the exercise of the powers granted by or reasonably implied from the provisions of this chapter.

14. The director may make such investigations as the director deems necessary to carry out effectively the director's responsibilities under this chapter or to determine whether a person has engaged or is engaging in acts or practices that constitute a violation of any provision of this

chapter or of any regulation or plan issued under this chapter. For the purpose of any investigation, the **[**director**]** **administrator** is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of books, papers, and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in this state. In case of contumacy by or refusal to obey a subpoena issued to any person, the director may seek enforcement thereof in the circuit court of proper venue.

15. The Missouri propane **[**gas**]** **safety** commission is hereby authorized to regulate the inspection of and provide specifications for propane as provided in this section.

16. A commissioner shall be removed from office by the governor for misfeasance, malfeasance, or willful neglect of duty or other cause after notice and public hearing, unless such notice or hearing shall be expressly waived in writing.

17. The director or any designated employee shall have free access, during reasonable hours, to any premises in the state where an installation covered by this chapter is being constructed, or is being installed, for the purpose of ascertaining whether said installation is being constructed and installed in accordance with the applicable provisions.

323.050. MUNICIPAL ORDINANCES IN CONFLICT WITH THIS CHAPTER PROHIBITED. — No city, town, village, fire district, **county,** or other political subdivision shall adopt or enforce any ordinance or regulation in conflict with the provisions of this chapter, or with the regulations promulgated under section 323.020. Nothing in this section shall prohibit any political subdivision from establishing a licensing requirement for persons relating to the installation, repair, replacement, or maintenance of **[**liquified**]** **liquefied** petroleum gas and all other fuel gas piping systems.

413.225. FEES — RATES — DUE AT TIME OF REGISTRATION, INSPECTION OR CALIBRATION, FAILURE TO PAY FEE, EFFECT, PENALTY. — 1. There is established a fee for registration, inspection and calibration services performed by the division of weights and measures. The fees are due at the time the service is rendered and shall be paid to the director by the person receiving the service. The director shall collect fees according to the following schedule and shall deposit them with the state treasurer into the agriculture protection fund as set forth in section 261.200:

(1) From August 28, 2013, until the next January first, laboratory fees for metrology calibrations shall be at the rate of sixty dollars per hour for tolerance testing or precision calibration. Time periods over one hour shall be computed to the nearest one-quarter hour. On the first day of January, 2014, and each year thereafter, the director of agriculture shall ascertain the total receipts and expenses for the metrology calibrations during the preceding year and shall fix a fee schedule for the ensuing year at a rate per hour as will yield revenue not more than the total cost of operating the metrology laboratory during the ensuing year, but not to exceed one hundred twenty-five dollars;

(2) All device test fees charged shall include, but not be limited to, the following devices:

(a) Small scales;

(b) Vehicle scales;

(c) Livestock scales;

(d) Hopper scales;

(e) Railroad scales;

(f) Monorail scales;

(g) In-motion scales including but not limited to vehicle, railroad and belt conveyor scales;

(h) Taximeters;

(i) Timing devices;

(j) Fabric-measuring devices;

(k) Wire- and cordage-measuring devices;

(l) Milk for quantity determination; **[**and**]**

(m) Vehicle tank meters;

(n) Compressed natural gas meters;

(o) Liquefied natural gas meters;

(p) Electrical charging stations; and

(q) Hydrogen fuel meters;

(3) Devices that require participation in on-site field evaluations for National Type Evaluation Program Certification and all tests of in-motion scales shall be charged a fee, plus mileage from the inspector's official domicile to and from the inspection site. The time shall begin when the state inspector performing the inspection arrives at the site to be inspected and shall end when the final report is signed by the owner/operator and the inspector departs;

(4) Every person shall register each location of such person's place of business where devices or instruments are used to ascertain the moisture content of grains and seeds offered for sale, processing or storage in this state with the director and shall pay a registration fee for each location so registered and a fee for each additional device or instrument at such location. Thereafter, by January thirty-first of each year, each person who is required to register pursuant to this subdivision shall pay an annual fee for each location so registered and an additional fee for each additional machine at each location. The fee on newly purchased devices shall be paid within thirty days after the date of purchase. Application for registration of a place of business shall be made on forms provided by the director and shall require information concerning the make, model and serial number of the device and such other information as the director shall deem necessary. Provided, however, this subsection shall not apply to moisture-measuring devices used exclusively for the purpose of obtaining information necessary to manufacturing processes involving plant products. In addition to fees required by this subdivision, a fee shall be charged for each device subject to retest.

2. On the first day of January, 1995, and each year thereafter, the director of agriculture shall ascertain the total receipts and expenses for the testing of weighing and measuring devices referred to in subdivisions (2), (3), and (4) of subsection 1 of this section and shall fix the fees or rate per hour for such weighing and measuring devices to derive revenue not more than the total cost of the operation.

3. On the first day of October, 2014, and each year thereafter, the director of the department of agriculture shall submit a report to the general assembly that states the current laboratory fees for metrology calibration, the expenses for administering this section for the previous calendar year, any proposed change to the laboratory fee structure, and estimated expenses for administering this section during the ensuing year. The proposed change to the laboratory fee structure shall not yield revenue greater than the total cost of administering this section during the ensuing year.

4. Beginning August 28, 2013, and each year thereafter, the director of the department of agriculture shall publish the laboratory fee schedule on the departmental website. The website shall be updated within thirty days of a change in the laboratory fee schedule set forth in this section.

5. Retests for any device within the same calendar year will be charged at the same rate as the initial test. Devices being retested in the same calendar year as a result of rejection and repair are exempt from the requirements of this subsection.

6. All device inspection fees shall be paid within thirty days of the issuance of the original invoice. Any fee not paid within ninety days after the date of the original invoice will be cause for the director to deem the device as incorrect and it may be condemned and taken out of service, and may be seized by the director until all fees are paid.

7. No fee provided for by this section shall be required of any person owning or operating a moisture-measuring device or instrument who uses such device or instrument solely in agricultural or horticultural operations on such person's own land, and not in performing services, whether with or without compensation, for another person.

413.226. WEIGHT AND MEASURE DEVICES LAW NOT APPLICABLE TO CERTAIN DEVICES — APPLICABILITY TO CERTAIN DEVICES. — 1. The provisions of sections 413.005 to 413.229 shall not apply to:

(1) Any gas, water or electric meter used or intended to be used for measuring or ascertaining the quantity of gas or electric current used for light, heat or power, or the quantity of water, furnished by any person or corporation to or for the use of any person**, unless such meter is used for charging electric vehicles at a retail location**;

(2) Any measuring device used by any person, firm, or corporation selling at retail or wholesale gasoline, diesel fuel, heating oil, kerosene, or jet fuel subject to inspection in accordance with chapter 414;

(3) Any liquid meter used for the measurement and retail sale of liquefied petroleum gas or **any meter used for** compressed natural gas subject to inspection in accordance with chapter 323**, unless such meter dispenses fuel for vehicle use**.

2. The provisions of sections 413.005 to 413.229 shall apply to the following commercial weighing and measuring equipment used for measuring and ascertaining the quantity of gas, electricity, or fuel for vehicle use:

(1) Compressed natural gas meters;

(2) Liquefied natural gas meters;

(3) Electrical charging stations; and

(4) Hydrogen fuel meters.

SECTION B. DELAYED EFFECTIVE DATE. — Section A of this act shall become effective January 1, 2016.

Approved July 7, 2014

HB 2163 [HB 2163]

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

Changes the laws regarding vehicle height and weight limits for a motor vehicle operating in the commercial zone in the City of Columbia

AN ACT to repeal section 304.190, RSMo, and to enact in lieu thereof one new section relating to city commercial zones.

SECTION

A. Enacting clause.

304.190. Height and weight regulations (cities of 75,000 or more) — commercial zone defined.

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

SECTION A. ENACTING CLAUSE. — Section 304.190, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 304.190, to read as follows:

304.190. HEIGHT AND WEIGHT REGULATIONS (CITIES OF 75,000 OR MORE) — COMMERCIAL ZONE DEFINED. — 1. No motor vehicle, unladen or with load, operating exclusively within the corporate limits of cities containing seventy-five thousand inhabitants or more or within two miles of the corporate limits of the city or within the commercial zone of the city shall exceed fifteen feet in height.

2. No motor vehicle operating exclusively within any said area shall have a greater weight than twenty-two thousand four hundred pounds on one axle.

3. The "commercial zone" of the city is defined to mean that area within the city together with the territory extending one mile beyond the corporate limits of the city and one mile additional for each fifty thousand population or portion thereof provided, however:

(1) The commercial zone surrounding a city not within a county shall extend twenty-five miles beyond the corporate limits of any such city not located within a county and shall also extend throughout any county with a charter form of government which adjoins that city and throughout any county with a charter form of government and with more than two hundred fifty thousand but fewer than three hundred fifty thousand inhabitants that is adjacent to such county adjoining such city;

(2) The commercial zone of a city with a population of at least four hundred thousand inhabitants but not more than four hundred fifty thousand inhabitants shall extend twelve miles beyond the corporate limits of any such city; except that this zone shall extend from the southern border of such city's limits, beginning with the western-most freeway, following said freeway south to the first intersection with a multilane undivided highway, where the zone shall extend south along said freeway to include a city of the fourth classification with more than eight thousand nine hundred but less than nine thousand inhabitants, and shall extend north from the intersection of said freeway and multilane undivided highway along the multilane undivided highway to the city limits of a city with a population of at least four hundred thousand inhabitants but not more than four hundred fifty thousand inhabitants, and shall extend east from the city limits of a special charter city with more than two hundred seventy-five but fewer than three hundred seventy-five inhabitants along State Route 210 and northwest from the intersection of State Route 210 and State Route 10 to include the boundaries of any city of the third classification with more than ten thousand eight hundred but fewer than ten thousand nine hundred inhabitants and located in more than one county. The commercial zone shall continue east along State Route 10 from the intersection of State Route 10 and State Route 210 to the eastern city limit of a city of the fourth classification with more than five hundred fifty but fewer than six hundred twenty-five inhabitants and located in any county of the third classification without a township form of government and with more than twenty-three thousand but fewer than twenty-six thousand inhabitants and with a city of the third classification with more than five thousand but fewer than six thousand inhabitants as the county seat. The commercial zone described in this subdivision shall be extended to also include the stretch of State Route 45 from its intersection with Interstate 29 extending northwest to the city limits of any village with more than forty but fewer than fifty inhabitants and located in any county of the first classification with more than eighty-three thousand but fewer than ninety-two thousand inhabitants and with a city of the fourth classification with more than four thousand five hundred but fewer than five thousand inhabitants as the county seat;

(3) The commercial zone of a city of the third classification with more than nine thousand six hundred fifty but fewer than nine thousand eight hundred inhabitants shall extend south from the city limits along U.S. Highway 61 to the intersection of State Route OO in a county of the third classification without a township form of government and with more than seventeen thousand eight hundred but fewer than seventeen thousand nine hundred inhabitants**;**

(4) The commercial zone of a home rule city with more than one hundred eight thousand but fewer than one hundred sixteen thousand inhabitants shall extend north from the city limits along U.S. Highway 63 for eight miles, and shall extend east from the city limits along State Route WW to the intersection of State Route J and continue south on State Route J for four miles.

4. In no case shall the commercial zone of a city be reduced due to a loss of population. The provisions of this section shall not apply to motor vehicles operating on the interstate highways in the area beyond two miles of a corporate limit of the city unless the United States Department of Transportation increases the allowable weight limits on the interstate highway

system within commercial zones. In such case, the mileage limits established in this section shall be automatically increased only in the commercial zones to conform with those authorized by the United States Department of Transportation.

5. Nothing in this section shall prevent a city, county, or municipality, by ordinance, from designating the routes over which such vehicles may be operated.

6. No motor vehicle engaged in interstate commerce, whether unladen or with load, whose operations in the state of Missouri are limited exclusively to the commercial zone of a first class home rule municipality located in a county with a population between eighty thousand and ninety-five thousand inhabitants which has a portion of its corporate limits contiguous with a portion of the boundary between the states of Missouri and Kansas, shall have a greater weight than twenty-two thousand four hundred pounds on one axle, nor shall exceed fifteen feet in height.

Approved June 23, 2014

HB 2238 [SCS HCS HB 2238]

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

Allows the Department of Agriculture to grow industrial hemp for research purposes and allows the use of hemp extract to treat certain individuals with epilepsy

AN ACT to amend chapters 192, 195, and 261, RSMo, by adding thereto three new sections relating to hemp, with an emergency clause and penalty provisions.

SECTION

A. Enacting clause.
192.945. Registration cards issued, requirements — definitions — recordkeeping — rulemaking.
195.207. Hemp extract, use of, permitted when — administration to a minor permitted, when — amount authorized.
261.265. License issuance, to whom — grower may produce, manufacture, and distribute, when — recordkeeping — inspections — rulemaking — civil penalty.
B. Emergency clause.

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

SECTION A. ENACTING CLAUSE. — Chapters 192, 195, and 261, RSMo, are amended by adding thereto three new sections, to be known as sections 192.945, 195.207, and 261.265, to read as follows:

192.945. REGISTRATION CARDS ISSUED, REQUIREMENTS — DEFINITIONS — RECORDKEEPING — RULEMAKING. — 1. As used in this section, the following terms shall mean:

(1) "Department", the department of health and senior services;

(2) "Hemp extract", as such term is defined in section 195.207;

(3) "Hemp extract registration card", a card issued by the department under this section;

(4) "Intractable epilepsy", epilepsy that as determined by a neurologist does not respond to three or more treatment options overseen by the neurologist;

(5) "Neurologist", a physician who is licensed under chapter 334 and board certified in neurology;

(6) "Parent", a parent or legal guardian of a minor who is responsible for the minor's medical care;

(7) "Registrant", an individual to whom the department issues a hemp extract registration card under this section.

2. The department shall issue a hemp extract registration card to an individual who:

(1) Is eighteen years of age or older;

(2) Is a Missouri resident;

(3) Provides the department with a statement signed by a neurologist that:

(a) Indicates that the individual suffers from intractable epilepsy and may benefit from treatment with hemp extract; and

(b) Is consistent with a record from the neurologist concerning the individual contained in the database described in subsection 9 of this section;

(4) Pays the department a fee in an amount established by the department under subsection 6 of this section; and

(5) Submits an application to the department on a form created by the department that contains:

(a) The individual's name and address;

(b) A copy of the individual's valid photo identification; and

(c) Any other information the department considers necessary to implement the provisions of this section.

3. The department shall issue a hemp extract registration card to a parent who:

(1) Is eighteen years of age or older;

(2) Is a Missouri resident;

(3) Provides the department with a statement signed by a neurologist that:

(a) Indicates that a minor in the parent's care suffers from intractable epilepsy and may benefit from treatment with hemp extract; and

(b) Is consistent with a record from the neurologist concerning the minor contained in the database described in subsection 9 of this section;

(4) Pays the department a fee in an amount established by the department under subsection 6 of this section; and

(5) Submits an application to the department on a form created by the department that contains:

(a) The parent's name and address;

(b) The minor's name;

(c) A copy of the parent's valid photo identification; and

(d) Any other information the department considers necessary to implement the provisions of this section.

4. The department shall maintain a record of the name of each registrant and the name of each minor receiving care from a registrant.

5. The department shall promulgate rules to:

(1) Implement the provisions of this section including establishing the information the applicant is required to provide to the department and establishing in accordance with recommendations from the department of public safety the form and content of the hemp extract registration card; and

(2) Regulate the distribution of hemp extract from a cannabidiol oil care center to a registrant, which shall be in addition to any other state or federal regulations; and

The department may promulgate rules to authorize clinical trials involving hemp extract.

6. The department shall establish fees that are no greater than the amount necessary to cover the cost the department incurs to implement the provisions of this section.

7. The registration cards issued under this section shall be valid for one year and renewable if at the time of renewal the registrant meets the requirements of either subsection 2 or 3 of this section.

8. The neurologist who signs the statement described in subsection 2 or 3 of this section shall:

(1) Keep a record of the neurologist's evaluation and observation of a patient who is a registrant or minor under a registrant's care including the patient's response to hemp extract; and

(2) Transmit the record described in subdivision (1) of this subsection to the department.

9. The department shall maintain a database of the records described in subsection 8 of this section and treat the records as identifiable health data.

10. The department may share the records described in subsection 9 of this section with a higher education institution for the purpose of studying hemp extract.

11. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section shall be invalid and void.

195.207. HEMP EXTRACT, USE OF, PERMITTED WHEN — ADMINISTRATION TO A MINOR PERMITTED, WHEN — AMOUNT AUTHORIZED. — 1. As used in sections 192.945, 261.265, 261.267, and this section, the term "hemp extract" shall mean an extract from a cannabis plant or a mixture or preparation containing cannabis plant material that:

(1) Is composed of no more than three tenths percent tetrahydrocannabinol by weight;

(2) Is composed of at least five percent cannabidiol by weight; and

(3) Contains no other psychoactive substance.

2. Notwithstanding any other provision of this chapter, an individual who has been issued a valid hemp extract registration card under section 192.945, or is a minor under a registrant's care, and possesses or uses hemp extract is not subject to the penalties described in this chapter for possession or use of the hemp extract if the individual:

(1) Possesses or uses the hemp extract only to treat intractable epilepsy as defined in section 192.945;

(2) Originally obtained the hemp extract from a sealed container with a label indicating the hemp extract's place of origin and a number that corresponds with a certificate of analysis;

(3) Possesses, in close proximity to the hemp extract, a certificate of analysis that:

(a) Has a number that corresponds with the number on the label described in subdivision (2) of this subsection;

(b) Indicates the hemp extract's ingredients including its percentages of tetrahydrocannabinol and cannabidiol by weight;

(c) Is created by a laboratory that is not affiliated with the producer of the hemp extract and is licensed in the state where the hemp extract was produced; and

(d) Is transmitted by the laboratory to the department of health and senior services; and

(4) Has a current hemp extract registration card issued by the department of health and senior services under section 192.945.

3. Notwithstanding any other provision of this chapter, an individual who possesses hemp extract lawfully under subsection 2 of this section and administers hemp extract to a minor suffering from intractable epilepsy is not subject to the penalties described in this chapter for administering the hemp extract to the minor if:

(1) The individual is the minor's parent or legal guardian; and

(2) The individual is registered with the department of health and senior services as the minor's parent under section 192.945.

4. An individual who has been issued a valid hemp extract registration card under section 192.945, or is a minor under a registrant's care, may possess up to twenty ounces of hemp extract pursuant to this section. Subject to any rules or regulations promulgated by the department of health and senior services, an individual may apply for a waiver if a physician provides a substantial medical basis in a signed, written statement asserting that, based on the patient's medical history, in the physician's professional judgment, twenty ounces is an insufficient amount to properly alleviate the patient's medical condition or symptoms associated with such medical condition.

261.265. LICENSE ISSUANCE, TO WHOM — GROWER MAY PRODUCE, MANUFACTURE, AND DISTRIBUTE, WHEN — RECORDKEEPING — INSPECTIONS — RULEMAKING — CIVIL PENALTY. — 1. For purposes of this section, the following terms shall mean:

(1) "Cannabidiol oil care center", the premises specified in an application for a cultivation and production facility license in which the licensee is authorized to distribute processed hemp extract to persons possessing a hemp extract registration card issued under section 192.945;

(2) "Cultivation and production facility", the land and premises specified in an application for a cultivation and production facility license on which the licensee is authorized to grow, cultivate, process, and possess hemp and hemp extract;

(3) "Cultivation and production facility license", a license that authorizes the licensee to grow, cultivate, process, and possess hemp and hemp extract, and distribute hemp extract to its cannabidiol oil care centers;

(4) "Department", the department of agriculture;

(5) "Grower", a nonprofit entity issued a cultivation and production facility license by the department of agriculture that produces hemp extract for the treatment of intractable epilepsy;

(6) "Hemp":

(a) All non-seed parts and varieties of the cannabis sativa plant, whether growing or not, that contain a crop wide average tetrahydrocannabinol (THC) concentration that does not exceed the lesser of:

a. Three-tenths of one percent on a dry weight basis; or

b. The percent based on a dry weight basis determined by the federal Controlled Substances Act under 21 U.S.C. Section 801 et seq.;

(b) Any cannabis sativa seed that is:

a. Part of a growing crop;

b. Retained by a grower for future planting; or

c. For processing into or use as agricultural hemp seed. This term shall not include industrial hemp commodities or products.

(7) "Hemp monitoring system", an electronic tracking system that includes, but is not limited to, testing and data collection established and maintained by the cultivation and production facility and is available to the department for the purposes of documenting the hemp extract production and retail sale of the hemp extract.

2. The department shall issue a cultivation and production facility license to a nonprofit entity to grow or cultivate the cannabis plant used to make hemp extract as defined in subsection 1 of section 195.207 or hemp on the entity's property if the entity has submitted to the department an application as required by the department under subsection 7 of this section, the entity meets all requirements of this section and the department's rules, and there are fewer than two licensed cultivation and production facilities operating in the state.

3. A grower may produce and manufacture hemp and hemp extract, and distribute hemp extract as defined in section 195.207 for the treatment of persons suffering from intractable epilepsy as defined in section 192.945 consistent with any and all state or federal regulations regarding the production, manufacture, or distribution of such product. The department shall not issue more than two cultivation and production facility licenses for the operation of such facilities at any one time.

4. The department shall maintain a list of growers.

5. All growers shall keep records in accordance with rules adopted by the department. Upon at least three days notice, the director of the department may audit the required records during normal business hours. The director may conduct an audit for the purpose of ensuring compliance with this section.

6. In addition to an audit conducted in accordance with subsection 5 of this section, the director may inspect independently, or in cooperation with the state highway patrol or a local law enforcement agency, any hemp crop during the crop's growth phase and take a representative composite sample for field analysis. If a crop contains an average tetrahydrocannabinol (THC) concentration exceeding the lesser of:

(1) Three-tenths of one percent on a dry weight basis; or

(2) The percent based on a dry weight basis determined by the federal Controlled Substances Act under 21 U.S.C. Section 801 et seq.,

the director may detain, seize, or embargo the crop.

7. The department shall promulgate rules including, but not limited to:

(1) Application requirements for licensing, including requirements for the submission of fingerprints and the completion of a criminal background check;

(2) Security requirements for cultivation and production facility premises, including, at a minimum, lighting, physical security, video and alarm requirements;

(3) Rules relating to hemp monitoring systems as defined in this section;

(4) Other procedures for internal control as deemed necessary by the department to properly administer and enforce the provisions of this section, including reporting requirements for changes, alterations, or modifications of the premises;

(5) Requirements that any hemp extract received from a legal source be submitted to a testing facility designated by the department to ensure that such hemp extract complies with the provisions of section 195.207 and to ensure that the hemp extract does not contain any pesticides. Any hemp extract that is not submitted for testing or which after testing is found not to comply with the provisions of section 195.207 shall not be distributed or used and shall be submitted to the department for destruction; and

(6) Rules regarding the manufacture, storage, and transportation of hemp and hemp extract, which shall be in addition to any other state or federal regulations.

8. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section.

9. All hemp waste from the production of hemp extract shall either be destroyed, recycled by the licensee at the hemp cultivation and production facility, or donated to the department or an institution of higher education for research purposes, and shall not be used for commercial purposes.

10. In addition to any other liability or penalty provided by law, the director may revoke or refuse to issue or renew a cultivation and production facility license and may

impose a civil penalty on a grower for any violation of this section, or section 192.945 or 195.207. The director may not impose a civil penalty under this section that exceeds two thousand five hundred dollars.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to provide individuals suffering from epilepsy with access to medical treatment, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved July 14, 2014

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