AN ACT

To repeal sections 508.010, 508.040, 508.070, 508.120, 510.263, 514.060, 537.035, 537.067, 538.205, 538.210, and 538.225, RSMo, and to enact in lieu thereof fourteen new sections relating to claims for damages and the payment thereof.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Sections 508.010, 508.040, 508.070, 508.120, 510.263, 514.060, 537.035, 537.067, 538.205, 538.210, and 538.225, RSMo, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 508.010, 510.263, 514.035, 514.060, 537.035, 537.067, 538.205, 538.210, 538.213, 538.225, 538.226, 1, 2, and 3, to read as follows:

508.010. **[**Suits instituted by summons shall, except as otherwise provided by law, be brought**]** 1. As used in this section "principal place of residence", shall mean the county which is the main place where an individual resides in the state of Missouri. There shall be a rebuttable presumption that the county of voter registration is the principal place of residence. There shall be only one principal place of residence.

2. In all actions in which there is no count alleging a tort venue shall be determined as follows:

(1) When the defendant is a resident of the state, either in the county within which the defendant resides, or in the

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 boldface type in the above law is proposed language.

county within which the plaintiff resides, and the defendant may be found;

(2) When there are several defendants, and they reside in different counties, the suit may be brought in any such county;

(3) When there are several defendants, some residents and others nonresidents of the state, suit may be brought in any county in this state in which any defendant resides;

(4) When all the defendants are nonresidents of the state, suit may be brought in any county in this state**[**;

(5) Any action, local or transitory, in which any county shall be plaintiff, may be commenced and prosecuted to final judgment in the county in which the defendant or defendants reside, or in the county suing and where the defendants, or one of them, may be found;

(6) In all tort actions the suit may be brought in the county where the cause of action accrued regardless of the residence of the parties, and process therein shall be issued by the court of such county and may be served in any county within the state; provided, however, that in any action for defamation or for invasion of privacy the cause of action shall be deemed to have accrued in the county in which the defamation or invasion was first published**]**.

3. Tort actions shall include claims based upon improper health care.

4. Notwithstanding any other provision of law in all

actions in which there is any count alleging a tort, and in which the cause of action occurred in the state of Missouri venue shall be in the county where the cause of action occurred.

5. In all actions in which there is any count alleging a tort and in which the cause of action occurred outside the state of Missouri, except as otherwise provided by law, venue shall be determined as follows:

(1) If there is a corporate defendant then venue may be in the county where a corporate defendant's registered agent is located and if the corporation has not reported or maintained a registered agent then venue shall be in Cole County;

(2) If there is an individual defendant then venue may be in the county of the individual's principal place of residence in the state of Missouri.

6. Any action, local or transitory, in which any county shall be plaintiff, may be commenced and prosecuted to final judgment in the county in which the defendant or defendants reside, or in the county suing and where the defendants, or one of them, may be found.

7. In all actions process therein shall be issued by the court of such county and may be served in any county within the state.

8. In any action for defamation or for invasion of privacy the cause of action shall be deemed to have occurred in the county in which the defamation or invasion was first published.

9. In all actions venue shall be determined as of the date of the occurrence.

10. All motions to dismiss or to transfer based upon a claim of improper venue shall be deemed granted if not denied within sixty days of filing of the motion unless such time period is waived in writing by all parties.

510.263. 1. All actions tried before a jury involving punitive damages, including tort actions based upon improper health care, shall be conducted in a bifurcated trial before the same jury if requested by any party.

2. In the first stage of a bifurcated trial, in which the issue of punitive damages is submissible, the jury shall determine liability for compensatory damages, the amount of compensatory damages, including nominal damages, and the liability of a defendant for punitive damages. Evidence of defendant's financial condition shall not be admissible in the first stage of such trial unless admissible for a proper purpose other than the amount of punitive damages.

3. If during the first stage of a bifurcated trial the jury determines that a defendant is liable for punitive damages, that jury shall determine, in a second stage of trial, the amount of punitive damages to be awarded against such defendant. Evidence of such defendant's net worth shall be admissible during the second stage of such trial.

4. Within the time for filing a motion for new trial, a

defendant may file a post-trial motion requesting the amount awarded by the jury as punitive damages be credited by the court with amounts previously paid by the defendant for punitive damages arising out of the same conduct on which the imposition of punitive damages is based. At any hearing, the burden on all issues relating to such a credit shall be on the defendant and either party may introduce relevant evidence on such motion. Such a motion shall be determined by the trial court within the time and according to procedures applicable to motions for new trial. If the trial court sustains such a motion the trial court shall credit the jury award of punitive damages by the amount found by the trial court to have been previously paid by the defendant arising out of the same conduct and enter judgment accordingly. If the defendant fails to establish entitlement to a credit under the provisions of this section, or the trial court finds from the evidence that the defendant's conduct out of which the prior punitive damages award arose was not the same conduct on which the imposition of punitive damages is based in the pending action, or the trial court finds the defendant unreasonably continued the conduct after acquiring actual knowledge of the dangerous nature of such conduct, the trial court shall disallow such credit, or, if the trial court finds that the laws regarding punitive damages in the state in which the prior award of punitive damages was entered substantially and materially deviate from the law of the state of Missouri and that

the nature of such deviation provides good cause for disallowance of the credit based on the public policy of Missouri, then the trial court may disallow all or any part of the credit provided by this section.

5. The credit allowable under this section shall not apply to causes of action for libel, slander, assault, battery, false imprisonment, criminal conversation, malicious prosecution or fraud.

6. The doctrines of remittitur and additur, based on the trial judge's assessment of the totality of the surrounding circumstances, shall apply to punitive damage awards.

7. As used in this section, the term "punitive damage award" means an award for punitive or exemplary damages or an award for aggravating circumstances.

8. Discovery as to a defendant's assets shall be allowed only after a finding by the trial court that it is more likely than not that the plaintiff will be able to present a submissible case to the trier of fact on the plaintiff's claim of punitive damages.

514.035. The term "costs" means the total of fees, as defined in section 488.010, RSMo, miscellaneous charges, as defined in section 488.010, RSMo, and surcharges as defined in section 488.010, RSMo, as well as all reasonable charges and fees of endorsed expert witnesses, all reasonable travel expenses, records retrieval expenses, photocopying expenses, long distance

telephone expenses, all reasonable exhibit preparation expenses, videotaped deposition expenses, and court reporter fees.

514.060. 1. In all civil actions, or proceedings of any kind, the party prevailing shall recover his or her costs against the other party, except as provided in this section or in those cases in which a different provision is made by law.

2. In all tort actions, including tort actions based upon improper health care, in which all claims for damages exceed twenty-five thousand dollars, at any time later than one hundred twenty days after the filing of the defendant's initial responsive pleading, but not less than sixty days prior to trial, either party may make an offer of settlement to any other party.

3. If the plaintiff's net recovery is greater than the plaintiff's offer of settlement, then the plaintiff shall be deemed to be the prevailing party and the defendant shall pay all of the costs of the plaintiff. If the plaintiff's net recovery is less than the defendant's offer of settlement, the defendant shall be deemed to be the prevailing party and the plaintiff shall pay all of the defendant's costs.

4. If all parties submit an offer of settlement and the plaintiff's net recovery is between the amount of the plaintiff's offer of settlement and the defendant's offer of settlement, then neither party shall pay the other party's costs.

5. Neither party shall pay the other party's costs in cases where the defendant is a governmental entity and the trial court

makes a written finding that the plaintiff filed the petition in good faith.

6. As used in this section, "plaintiff's net recovery", means the amount of the judgment reduced by the plaintiff's percentage of comparative fault.

7. Any such offer of settlement shall be made in writing and sent by certified mail and shall be left open for sixty days unless rejected earlier.

8. The acceptance of any such offer of settlement shall be made in writing and sent by certified mail and shall bear a postmark no later than sixty days of the postmark of the offer of settlement.

9. Any offer of settlement not so accepted within sixty days shall be deemed rejected.

10. All claims for costs shall, within twenty days after the judgment becomes final, be submitted to the trial court for determination as to the reasonableness and necessity of the costs. The trial court may also deny the assessment of costs if it determines that a party's offer of settlement was not made in good faith.

11. Nothing contained herein shall limit the plaintiff's claim for interest pursuant to section 408.040, RSMo.

12. The trial court may, upon application, extend the sixty-day period to accept or reject an offer of settlement consistent with an offer referring the cause of action to

mediation.

537.035. 1. As used in this section, unless the context clearly indicates otherwise, the following words and terms shall have the meanings indicated:

(1) "Health care professional", a physician or surgeon licensed under the provisions of chapter 334, RSMo, or a dentist licensed under the provisions of chapter 332, RSMo, or a podiatrist licensed under the provisions of chapter 330, RSMo, or an optometrist licensed under the provisions of chapter 336, RSMo, or a pharmacist licensed under the provisions of chapter 338, RSMo, or a chiropractor licensed under the provisions of chapter 331, RSMo, or a psychologist licensed under the provisions of chapter 337, RSMo, or a nurse licensed under the provisions of chapter 335, RSMo, or a social worker licensed under the provisions of chapter 337, RSMo, or a professional counselor licensed under the provisions of chapter 337, RSMo, or a mental health professional as defined in section 632.005, RSMo, while acting within their scope of practice;

(2) "Peer review committee", a committee of health care professionals with the responsibility to evaluate, maintain, or monitor the quality and utilization of health care services or to exercise any combination of such responsibilities.

2. A peer review committee may be constituted as follows:

(1) Comprised of, and appointed by, a state, county or local society of health care professionals;

(2) Comprised of, and appointed by, the partners, shareholders, or employed health care professionals of a partnership or professional corporation of health care professionals;

(3) Appointed by the board of trustees, chief executive officer, or the organized medical staff of a licensed hospital, or other health facility operating under constitutional or statutory authority, <u>including long-term care facilities licensed under chapter 198, RSMo,</u> or an administrative entity of the department of mental health recognized pursuant to the provisions of subdivision (3) of subsection 1 of section 630.407, RSMo;

(4) Any other organization formed pursuant to state or federal law authorized to exercise the responsibilities of a peer review committee and acting within the scope of such authorization;

(5) Appointed by the board of directors, chief executive officer or the medical director of the licensed health maintenance organization.

3. Each member of a peer review committee and each person, hospital governing board, health maintenance organization board of directors, and chief executive officer of a licensed hospital or other hospital operating under constitutional or statutory authority, chief executive officer or medical director of a licensed health maintenance organization who testifies before, or provides information to, acts upon the recommendation of, or

otherwise participates in the operation of, such a committee shall be immune from civil liability for such acts so long as the acts are performed in good faith, without malice and are reasonably related to the scope of inquiry of the peer review committee.

4. Except as otherwise provided in this section, the proceedings, findings, deliberations, reports, and minutes of peer review committees concerning the health care provided any patient are privileged and shall not be subject to discovery, subpoena, or other means of legal compulsion for their release to any person or entity or be admissible into evidence in any judicial or administrative action for failure to provide appropriate care. Except as otherwise provided in this section, no person who was in attendance at any peer review committee proceeding shall be permitted or required to disclose any information acquired in connection with or in the course of such proceeding, or to disclose any opinion, recommendation, or evaluation of the committee or board, or any member thereof; provided, however, that information otherwise discoverable or admissible from original sources is not to be construed as immune from discovery or use in any proceeding merely because it was presented during proceedings before a peer review committee nor is a member, employee, or agent of such committee, or other person appearing before it, to be prevented from testifying as to matters within his personal knowledge and in accordance with the

other provisions of this section, but such witness cannot be questioned about testimony or other proceedings before any health care review committee or board or about opinions formed as a result of such committee hearings.

5. The provisions of subsection 4 of this section limiting discovery and admissibility of testimony as well as the proceedings, findings, records, and minutes of peer review committees do not apply in any judicial or administrative action brought by a peer review committee or the legal entity which formed or within which such committee operates to deny, restrict, or revoke the hospital staff privileges or license to practice of a physician or other health care providers; or when a member, employee, or agent of the peer review committee or the legal entity which formed such committee or within which such committee operates is sued for actions taken by such committee which operate to deny, restrict or revoke the hospital staff privileges or license to practice of a physician or other health care provider.

6. Nothing in this section shall limit authority otherwise provided by law of a health care licensing board of the state of Missouri to obtain information by subpoena or other authorized process from peer review committees or to require disclosure of otherwise confidential information relating to matters and investigations within the jurisdiction of such health care licensing boards.

537.067. [1.] In all tort actions for damages[, in which fault is not assessed to the plaintiff], [the defendants] a defendant shall be jointly and severally liable for the amount of [the judgment] the compensatory damages and noneconomic damages portion of the judgment rendered against [such] defendants only if such defendant is found to bear fifty percent or more of fault. A defendant may not be jointly or severally liable for more than the percentage of punitive damages for which fault is attributed to such defendant by the trier of fact.

[2. In all tort actions for damages in which fault is assessed to plaintiff the defendants shall be jointly and severally liable for the amount of the judgment rendered against such defendants except as follows:

(1) In all such actions in which the trier of fact assesses a percentage of fault to the plaintiff, any party, including the plaintiff, may within thirty days of the date the verdict is rendered move for reallocation of any uncollectible amounts;

(2) If such a motion is filed the court shall determine whether all or part of a party's equitable share of the obligation is uncollectible from that party, and shall reallocate any uncollectible amount among the other parties, including a claimant at fault, according to their respective percentages of fault;

(3) The party whose uncollectible amount is reallocated is nonetheless subject to contribution and to any continuing

liability to the claimant on the judgment;

(4) No amount shall be reallocated to any party whose assessed percentage of fault is less than the plaintiff's so as to increase that party's liability by more than a factor of two;

(5) If such a motion is filed, the parties may conduct discovery on the issue of collectibility prior to a hearing on such motion;

(6) Any order of reallocation pursuant to this section shall be entered within one hundred twenty days after the date of filing such a motion for reallocation. If no such order is entered within that time, such motion shall be deemed to be overruled;

(7) Proceedings on a motion for reallocation shall not operate to extend the time otherwise provided for post-trial motion or appeal on other issues.

Any appeal on an order or denial of reallocation shall be taken within the time provided under applicable rules of civil procedure and shall be consolidated with any other appeal on other issues in the case.

3. This section shall not be construed to expand or restrict the doctrine of joint and several liability except for reallocation as provided in subsection 2.**]**

538.205. As used in sections 538.205 to 538.230, the following terms shall mean:

(1) "Economic damages", damages arising from pecuniary harm including, without limitation, medical damages, and those damages arising from lost wages and lost earning capacity;

(2) "Equitable share", the share of a person or entity in an obligation that is the same percentage of the total obligation as the person's or entity's allocated share of the total fault, as found by the trier of fact;

(3) "Future damages", damages that the trier of fact finds will accrue after the damages findings are made;

(4) "Health care provider", any physician, hospital, health maintenance organization, ambulatory surgical center, long-term care facility <u>including those licensed under chapter 198, RSMo</u>, dentist, registered or licensed practical nurse, optometrist, podiatrist, pharmacist, chiropractor, professional physical therapist, psychologist, physician-in-training, and any other person or entity that provides health care services under the authority of a license or certificate;

(5) "Health care services", any services that a health care provider renders to a patient in the ordinary course of the health care provider's profession or, if the health care provider is an institution, in the ordinary course of furthering the purposes for which the institution is organized. Professional services shall include, but are not limited to, transfer to a patient of goods or services incidental or pursuant to the practice of the health care provider's profession or in

furtherance of the purposes for which an institutional health care provider is organized;

(6) "Medical damages", damages arising from reasonable expenses for necessary drugs, therapy, and medical, surgical, nursing, x-ray, dental, custodial and other health and rehabilitative services;

(7) "Noneconomic damages", damages arising from nonpecuniary harm including, without limitation, pain, suffering, mental anguish, inconvenience, physical impairment, disfigurement, loss of capacity to enjoy life, and loss of consortium but shall not include punitive damages;

(8) "Past damages", damages that have accrued when the damages findings are made;

(9) "Physician employee", any person or entity who works for hospitals for a salary or under contract and who is covered by a policy of insurance or self-insurance by a hospital for acts performed at the direction or under control of the hospital;

(10) "Punitive damages", damages intended to punish or deter willful, wanton or malicious misconduct<u>, including exemplary damages and damages for aggravating circumstances</u>;

(11) "Self-insurance", a formal or informal plan of self-insurance or no insurance of any kind.

538.210. 1. In any action against a health care provider for damages for personal injury or death arising out of the rendering of or the failure to render health care services, no

plaintiff shall recover more than **[**three**]** four hundred **[**fifty**]** thousand dollars **[**per occurrence**]** for noneconomic damages from any one defendant as defendant is defined in subsection 2 of this section.

2. "Defendant" for purposes of sections 538.205 to 538.230 shall be defined as:

(1) A hospital as defined in chapter 197, RSMo, and its employees and physician employees who are insured under the hospital's professional liability insurance policy or the hospital's self-insurance maintained for professional liability purposes;

(2) A physician, including his nonphysician employees who are insured under the physician's professional liability insurance or under the physician's self-insurance maintained for professional liability purposes;

(3) Any other health care provider, including but not limited to a facility licensed under chapter 198, RSMo, having the legal capacity to sue and be sued and who is not included in subdivisions (1) and (2) of this subsection, including employees of any health care providers who are insured under the health care provider's professional liability insurance policy or self-insurance maintained for professional liability purposes;

(4) Any other individual or entity that is a defendant in a lawsuit brought against a health care provider pursuant to this chapter, or that is a defendant in any lawsuit that arises out of

the rendering of or the failure to render health care services;

(5) No hospital or other health care provider shall be liable to any plaintiff based solely on the actions or omissions of any other entity or person who is not an employee of that hospital or other health care provider.

3. In any action against a health care provider for damages for personal injury or death arising out of the rendering of or the failure to render health care services, where the trier of fact is a jury, such jury shall not be instructed by the court with respect to the limitation on an award of noneconomic damages, nor shall counsel for any party or any person providing testimony during such proceeding in any way inform the jury or potential jurors of such limitation.

4. **[**The limitation on awards for noneconomic damages provided for in this section 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, 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, RSMo.

5. Any provision of law or court rule to the contrary notwithstanding, an award of punitive damages against a health care provider governed by the provisions of sections 538.205 to 538.230 shall be made only upon a showing by a plaintiff that the health care provider demonstrated willful, wanton or malicious misconduct with respect to his actions which are found to have injured or caused or contributed to cause the damages claimed in the petition.**]** For purposes of sections 538.205 to 538.230, all individuals and entities asserting a claim for a wrongful death pursuant to section 537.080, RSMo, shall be considered to be one plaintiff.

538.213. 1. Any physician licensed pursuant to chapter 334, RSMo, or dentist licensed pursuant to chapter 332, RSMo, or hospital, or employee of a hospital as defined in section 197.020, RSMo, or other health care provider as defined in section 538.205, who renders any care or assistance in a hospital shall not be held liable for more than four hundred thousand dollars in civil damages, exclusive of interest computed from the date of judgment, to or for the benefit of any claimant arising out of any act or omission in rendering that care or assistance when:

(1) The care or assistance is rendered in a hospital emergency room;

(2) The care or assistance rendered is necessitated by a traumatic injury demanding immediate medical attention for which

the patient enters the hospital through its emergency room or trauma center; and

(3) The care or assistance is rendered in good faith and in a manner not amounting to gross negligence or reckless, willful, or wanton conduct.

2. The limitation on liability provided pursuant to this section does not apply to any act or omission in rendering care or assistance which:

(1) Occurs after the patient is stabilized and is capable of receiving medical treatment as a nonemergency patient; or

(2) Is unrelated to the original traumatic injury.

3. There shall be a rebuttable presumption that the medical condition was the result of the original traumatic injury and that the limitation on liability provided by subsection 1 of this section shall apply with respect to the medical condition that arises during the course of the follow-up care, if:

(1) A physician or dentist provides a follow-up care to a patient to whom he or she rendered care or assistance pursuant to subsection 1 of this section;

(2) A medical condition arises during the course of the follow-up care that is directly related to the original traumatic injury for which care or assistance was rendered pursuant to subsection 1 of this section; and

(3) The patient files an action for damages based on the medical condition that arises during the course of the follow-up

care.

4. For the purposes of this section, the following terms mean:

(1) "Reckless, willful, or wanton conduct", as it applies to a person to whom subsection 1 of this section applies, is deemed to be that conduct which the person knew or should have known at the time he or she rendered the care or assistance would be likely to result in injury so as to affect the life or health of another person, taking into consideration to the extent applicable:

(a) The extent or serious nature of the prevailing circumstances;

(b) The lack of time or ability to obtain appropriate consultation;

(c) The lack of a prior medical relationship with the patient;

(d) The inability to obtain an appropriate medical history of the patient; and

(e) The time constraints imposed by coexisting emergencies;

(2) "Traumatic injury", any acute injury which, according to standardized criteria for triage in the field, involves a significant risk of death or the precipitation of complications or disabilities.

538.225. 1. In any action against a health care provider for damages for personal injury or death on account of the

rendering of or failure to render health care services, the plaintiff or **[**his**]** the plaintiff's attorney shall file an affidavit with the court stating that he or she has obtained the written opinion of a legally qualified health care provider which states that the defendant health care provider failed to use such care as a reasonably prudent and careful health care provider would have under similar circumstances and that such failure to use such reasonable care directly caused or directly contributed to cause the damages claimed in the petition. The written opinion shall be subject to in camera review at the request of any defendant for a determination of whether the health care provider offering such an opinion meets the qualifications set forth in subsection 6 of this section.

2. The affidavit shall state the qualifications of such health care providers to offer such opinion.

3. A separate affidavit shall be filed for each defendant named in the petition.

4. Such affidavit shall be filed no later than ninety days after the filing of the petition unless the court, for good cause shown, orders that such time be extended for a period of time not to exceed an additional ninety days.

5. If the plaintiff or his attorney fails to file such affidavit the court **[**may**]** shall, upon motion of any party, dismiss the action against such moving party without prejudice.

6. As used in this section, the term "legally qualified

health care provider" means a health care provider licensed in this state or any other state in substantially the same profession and specialty as the defendant.

538.226. 1. The portion of statements, writings, or benevolent gestures expressing sympathy or a general sense of benevolence relating to the pain, suffering, or death of a person and made to that person or to the family of that person shall be inadmissible as evidence of an admission of liability in a civil action. A statement of fault, however, which is part of, or in addition to, any of the provisions of this subsection shall not be inadmissible pursuant to this section.

2. For the purposes of this section:

(1) "Benevolent gestures", actions which convey a sense of compassion or commiseration emanating from humane impulses;

(2) "Family", the spouse, parent, grandparent, stepmother, stepfather, child, grandchild, brother, sister, half brother, half sister, lifetime partner or significant other, adopted children of a parent, or spouse's parents of an injured party.

Section 1. 1. Any person may file a miscellaneous case for purpose of securing copies of their health care records or the health care records of any other person for whom he or she is the guardian or attorney-in-fact or is a potential claimant for a wrongful death.

2. A miscellaneous case shall be filed in the circuit in which any of the health care records sought to be obtained are

located.

3. (1) The petition shall contain the following:

(a) The name of the individual who received the health care services or medical treatment;

(b) A brief summary of the health care services or medical treatment received;

(c) A brief summary of the outcome of the health care services or medical treatment; and

(d) The names of the health care providers from whom health care records are being sought.

(2) The petition shall not contain:

(a) Allegations of negligence; or

(b) Demands, other than a general demand for access to health care records.

4. Within five days of filing the miscellaneous case, the petitioner shall mail a copy of the petition by regular and certified mail to each health care provider listed in the petition. The petitioner shall certify to the court that the petition has been mailed as required.

5. After filing a miscellaneous case, the petitioner may request the health care records described in subsection 1 of this section by subpoena and, if necessary, subpoena the health care records custodian for a deposition for the sole purpose of securing copies of the health care records and verifying their authenticity. Refusal to provide the requested records may be

the basis for the court to impose sanctions or orders of contempt.

6. The naming or listing of a health care provider as a person from whom records are requested shall not be considered for any reporting purposes as a claim made against the health care provider.

7. A health care provider, or any person or entity acting on behalf of a health care provider shall not charge more than is allowable pursuant to section 197.227, RSMo, for providing copies of health care records.

Section 2. If any provision of this act is found by a court of competent jurisdiction to be invalid or unconstitutional it is the stated intent of the legislature that the legislature would have approved the remaining portions of the act, and the remaining portions of the act shall remain in full force and effect.

Section 3. The provisions of this act shall only apply to causes of action filed after August 28, 2004.

[508.040. Suits against corporations shall be commenced either in the county where the cause of action accrued, or in case the corporation defendant is a railroad company owning, controlling or operating a railroad running into or through two or more counties in this state, then in either of such counties, or in any county where such corporations shall have or usually keep an office or agent for the transaction of their usual and customary business.**]**

[508.070. 1. Suit may be brought against any motor carrier which is subject to

regulation pursuant to chapter 390, RSMo, in any county where the cause of action may arise, in any town or county where the motor carrier operates, or judicial circuit where the cause of action accrued, or where the defendant maintains an office or agent, and service may be had upon the motor carrier whether an individual person, firm, company, association, or corporation, by serving process upon the director, division of motor carrier and railroad safety.

2. When a summons and petition are served upon the director, division of motor carrier and railroad safety, naming any motor carrier, either a resident or nonresident of this state, as a defendant in any action, the director shall immediately mail the summons and petition by registered United States mail to the motor carrier at the business address of the motor carrier as it appears upon the records of the commission. The director shall request from the postmaster a return receipt from the motor carrier to whom the registered letter enclosing copy of summons and petition is mailed. The director shall inform the clerk of the court out of which the summons was issued that the summons and petition were mailed to the motor carrier, as herein described, and the director shall forward to the clerk the return receipt showing delivery of the registered letter.

3. Each motor carrier not a resident of this state and not maintaining an office or agent in this state shall, in writing, designate the director as its authorized agent upon whom legal service may be had in all actions arising in this state from any operation of the motor vehicle pursuant to authority of any certificate or permit, and service shall be had upon the nonresident motor carrier as herein provided.

4. There shall be kept in the office of the director, division of motor carrier and railroad safety a permanent record showing all process served, the name of the plaintiff and defendant, the court from which the summons issued, the name and title of the officer serving the same, the day and the hour of service, the day and date on which petition and summons were forwarded to the

defendant or defendants by registered letter, the date on which return receipt is received by the director, and the date on which the return receipt was forwarded to the clerk of the court out of which the summons was issued.**]**

[508.120. No defendant shall be allowed a change of venue and no application by a defendant to disqualify a judge shall be granted unless the application therefor is made before the filing of his answer to the merits, except when the cause for the change of venue or disqualification arises, or information or knowledge of the existence thereof first comes to him, after the filing of his answer in which case the application shall state the time when the cause arose or when applicant acquired information and knowledge thereof, and the application must be made within five days thereafter.**]**