

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1451
95TH GENERAL ASSEMBLY

3992L.07C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 195.233, 211.031, 217.045, 302.020, 302.321, 303.025, 409.6-601, 409.6-607, 479.260, 488.5050, 491.170, 545.030, 559.036, 559.100, 559.105, 568.040, 570.120, 571.030, and 575.060, RSMo, and to enact in lieu thereof twenty-nine new sections relating to the justice system, with penalty provisions and an emergency clause for certain sections.

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

Section A. Sections 195.233, 211.031, 217.045, 302.020, 302.321, 303.025, 409.6-601, 2 409.6-607, 479.260, 488.5050, 491.170, 545.030, 559.036, 559.100, 559.105, 568.040, 570.120, 3 571.030, and 575.060, RSMo, are repealed and twenty-nine new sections enacted in lieu thereof, 4 to be known as sections 195.233, 211.031, 217.045, 302.020, 302.321, 303.025, 409.6-601, 5 409.6-607, 479.260, 488.5032, 488.5050, 491.170, 537.800, 537.802, 537.804, 537.806, 6 537.808, 537.810, 545.030, 557.014, 559.036, 559.100, 559.105, 559.117, 568.040, 570.120, 7 571.030, 575.060, and 650.470, to read as follows:

195.233. 1. It is unlawful for any person to use, or to possess with intent to use, drug 2 paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, 3 produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, 4 inhale, or otherwise introduce into the human body a controlled substance or an imitation 5 controlled substance in violation of sections 195.005 to 195.425.

6 2. A person who **knowingly** violates this section is guilty of a class A misdemeanor, 7 unless the person uses, or possesses with intent to use, the paraphernalia in combination with 8 each other to manufacture, compound, produce, prepare, test or analyze amphetamine or 9 methamphetamine or any of their analogues in which case the violation of this section is a class 10 D felony. **A person who recklessly violates this section is guilty of an infraction.**

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

47 (4) For the adoption of a person;

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

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

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

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

62 (3) Upon motion of any party or on its own motion, the court in which jurisdiction has
63 been taken pursuant to subsection 1 of this section may at any time thereafter transfer jurisdiction
64 of a child or person seventeen years of age to the court located in the county of the child's
65 residence or the residence of the person seventeen years of age for further action with the prior
66 consent of the receiving court;

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

72 (5) Upon motion of any child or person seventeen years of age or his or her parent, the
73 court having jurisdiction shall grant one change of judge pursuant to Missouri Supreme Court
74 Rules;

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

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

84 4. When an investigation by a juvenile officer pursuant to this section reveals that the
85 only basis for action involves an alleged violation of section 167.031, RSMo, involving a child
86 who alleges to be home schooled, the juvenile officer shall contact a parent or parents of such
87 child to verify that the child is being home schooled and not in violation of section 167.031,
88 RSMo, before making a report of such a violation. Any report of a violation of section 167.031,
89 RSMo, made by a juvenile officer regarding a child who is being home schooled shall be made
90 to the prosecuting attorney of the county where the child legally resides.

217.045. 1. The department shall have the authority to enter into arrangements with the
2 federal government for the receipt and disbursement of federal funds under any applicable
3 federal guidelines, subject to appropriations, to carry out the purposes of the department and shall
4 submit such plans and reports as may be required.

5 2. The director shall approve such applications for federal assistance administered
6 through the department as may be considered advisable after consultation with the appropriate
7 division director.

8 3. The department shall also have the authority to receive and disburse **grants, federal**
9 **funds, and** such other funds as may be **specified in any requirements, terms, or conditions**
10 **attached thereto or as** appropriated and directed by the general assembly.

302.020. 1. Unless otherwise provided for by law, it shall be unlawful for any person,
2 except those expressly exempted by section 302.080, to:

3 (1) Operate any vehicle upon any highway in this state unless the person has a valid
4 license;

5 (2) Operate a motorcycle or motortricycle upon any highway of this state unless such
6 person has a valid license that shows the person has successfully passed an examination for the
7 operation of a motorcycle or motortricycle as prescribed by the director. The director may

8 indicate such upon a valid license issued to such person, or shall issue a license restricting the
9 applicant to the operation of a motorcycle or motortricycle if the actual demonstration, required
10 by section 302.173, is conducted on such vehicle;

11 (3) Authorize or knowingly permit a motorcycle or motortricycle owned by such person
12 or under such person's control to be driven upon any highway by any person whose license does
13 not indicate that the person has passed the examination for the operation of a motorcycle or
14 motortricycle or has been issued an instruction permit therefor;

15 (4) Operate a motor vehicle with an instruction permit or license issued to another
16 person.

17 2. Every person operating or riding as a passenger on any motorcycle or motortricycle,
18 as defined in section 301.010, RSMo, upon any highway of this state shall wear protective
19 headgear at all times the vehicle is in motion. The protective headgear shall meet reasonable
20 standards and specifications established by the director.

21 3. Notwithstanding the provisions of section 302.340 any person convicted of **knowingly**
22 violating subdivision (1) or (2) of subsection 1 of this section is guilty of a class A misdemeanor.
23 **Notwithstanding the provisions of section 302.340 any person convicted of recklessly**
24 **violating subdivision (1) or (2) of subsection 1 of this section is guilty of an infraction.** Any
25 person convicted a third or subsequent time of violating subdivision (1) or (2) of subsection 1
26 of this section **if such prior convictions were misdemeanors** is guilty of a class D felony.
27 Notwithstanding the provisions of section 302.340, violation of subdivisions (3) and (4) of
28 subsection 1 of this section is a class C misdemeanor and the penalty for failure to wear
29 protective headgear as required by subsection 2 of this section is an infraction for which a fine
30 not to exceed twenty-five dollars may be imposed. Notwithstanding all other provisions of law
31 and court rules to the contrary, no court costs shall be imposed upon any person due to such
32 violation. No points shall be assessed pursuant to section 302.302 for a failure to wear such
33 protective headgear.

302.321. 1. A person commits the crime of driving while revoked if such person
2 operates a motor vehicle on a highway when such person's license or driving privilege has been
3 canceled, suspended, or revoked under the laws of this state or any other state and acts with
4 criminal negligence with respect to knowledge of the fact that such person's driving privilege has
5 been canceled, suspended, or revoked.

6 2. Any person [convicted of driving while revoked] **who knowingly violates this**
7 **section** is guilty of a class A misdemeanor. **Any person who recklessly violates this section**
8 **is guilty of an infraction.** Any person with no prior alcohol-related enforcement contacts as
9 defined in section 302.525, convicted a fourth or subsequent time of driving while revoked **when**
10 **such prior convictions were misdemeanors** or a county or municipal ordinance of driving

11 while suspended or revoked where the defendant was represented by or waived the right to an
12 attorney in writing, and where the prior three driving-while-revoked offenses occurred within ten
13 years of the date of occurrence of the present offense; and any person with a prior alcohol-related
14 enforcement contact as defined in section 302.525, convicted a third or subsequent time of
15 driving while revoked **when such prior convictions were misdemeanors** or a county or
16 municipal ordinance of driving while suspended or revoked where the defendant was represented
17 by or waived the right to an attorney in writing, and where the prior two driving-while-revoked
18 offenses occurred within ten years of the date of occurrence of the present offense and where the
19 person received and served a sentence of ten days or more on such previous offenses is guilty of
20 a class D felony. **If a person pleads guilty to or is found guilty of a misdemeanor or felony**
21 **under this section**, no court shall suspend the imposition of sentence as to such a person nor
22 sentence such person to pay a fine in lieu of a term of imprisonment, nor shall such person be
23 eligible for parole or probation until such person has served a minimum of forty-eight
24 consecutive hours of imprisonment, unless as a condition of such parole or probation, such
25 person performs at least ten days involving at least forty hours of community service under the
26 supervision of the court in those jurisdictions which have a recognized program for community
27 service. Driving while revoked is a class D felony on the second or subsequent conviction
28 pursuant to section 577.010, RSMo, or a fourth or subsequent conviction for any other offense.

303.025. 1. No owner of a motor vehicle registered in this state, or required to be
2 registered in this state, shall operate, register or maintain registration of a motor vehicle, or
3 permit another person to operate such vehicle, unless the owner maintains the financial
4 responsibility which conforms to the requirements of the laws of this state. Furthermore, no
5 person shall operate a motor vehicle owned by another with the knowledge that the owner has
6 not maintained financial responsibility unless such person has financial responsibility which
7 covers the person's operation of the other's vehicle; however, no owner shall be in violation of
8 this subsection if he or she fails to maintain financial responsibility on a motor vehicle which is
9 inoperable or being stored and not in operation. The director may prescribe rules and regulations
10 for the implementation of this section.

11 2. A motor vehicle owner shall maintain the owner's financial responsibility in a manner
12 provided for in section 303.160, or with a motor vehicle liability policy which conforms to the
13 requirements of the laws of this state.

14 3. Any person who **knowingly** violates this section is guilty of a class C misdemeanor.
15 **Any person who recklessly violates this section is guilty of an infraction.** However, no
16 person shall be found guilty of violating this section if the operator demonstrates to the court that
17 he or she met the financial responsibility requirements of this section at the time the peace
18 officer, commercial vehicle enforcement officer or commercial vehicle inspector wrote the

19 citation. In addition to any other authorized punishment, the court shall notify the director of
20 revenue of any person convicted pursuant to this section and shall do one of the following:

21 (1) Enter an order suspending the driving privilege as of the date of the court order. If
22 the court orders the suspension of the driving privilege, the court shall require the defendant to
23 surrender to it any driver's license then held by such person. The length of the suspension shall
24 be as prescribed in subsection 2 of section 303.042. The court shall forward to the director of
25 revenue the order of suspension of driving privilege and any license surrendered within ten days;

26 (2) Forward the record of the conviction for an assessment of four points; or

27 (3) In lieu of an assessment of points, render an order of supervision as provided in
28 section 302.303, RSMo. An order of supervision shall not be used in lieu of points more than
29 one time in any thirty-six-month period. Every court having jurisdiction pursuant to the
30 provisions of this section shall forward a record of conviction to the Missouri state highway
31 patrol, or at the written direction of the Missouri state highway patrol, to the department of
32 revenue, in a manner approved by the director of the department of public safety. The director
33 shall establish procedures for the record keeping and administration of this section.

34 4. Nothing in sections 303.010 to 303.050, 303.060, 303.140, 303.220, 303.290, 303.330
35 and 303.370 shall be construed as prohibiting the department of insurance, financial institutions
36 and professional registration from approving or authorizing those exclusions and limitations
37 which are contained in automobile liability insurance policies and the uninsured motorist
38 provisions of automobile liability insurance policies.

39 5. If a court enters an order of suspension, the offender may appeal such order directly
40 pursuant to chapter 512, RSMo, and the provisions of section 302.311, RSMo, shall not apply.

409.6-601. (a) This act shall be administered by the commissioner of securities who
2 shall be appointed by and act under the direction of the secretary of state, and shall receive
3 compensation as provided by law.

4 (b) The attorney general shall appear on behalf of and represent the commissioner in all
5 proceedings before the administrative hearing commission, and in the circuit court of any county
6 of the state or any city not within a county, or any court of another state in all civil enforcement
7 actions brought under this act. The attorney general may appoint attorneys employed by the
8 secretary of state as special assistant attorneys general to appear on behalf of and represent the
9 commissioner.

10 (c) It is unlawful for the secretary of state, commissioner or an officer, employee, or
11 designee of the commissioner to use for personal benefit or the benefit of others records or other
12 information obtained by or filed with the commissioner that are not public under section
13 409.6-607(b). This act does not authorize the secretary of state, commissioner or an officer,

14 employee, or designee of the commissioner to disclose the record or information, except in
15 accordance with section 409.6-602, 409.6-607(c), or 409.6-608.

16 (d) This act does not create or diminish a privilege or exemption that exists at common
17 law, by statute or rule, or otherwise.

18 (e) The commissioner may develop and implement investor education initiatives to
19 inform the public about investing in securities, with particular emphasis on the prevention and
20 detection of securities fraud. In developing and implementing these initiatives, the commissioner
21 may collaborate with public and nonprofit organizations with an interest in investor education.
22 The commissioner may accept a grant or donation from a person that is not affiliated with the
23 securities industry or from a nonprofit organization, regardless of whether the organization is
24 affiliated with the securities industry, to develop and implement investor education initiatives.
25 This subsection does not authorize the commissioner to require participation or monetary
26 contributions of a registrant in an investor education program.

27 (f) The "Investor Education and Protection Fund" is created to provide funds for the
28 purposes identified in subsection (e). Notwithstanding the provisions of section 33.080, RSMo,
29 any funds remaining in the secretary of state's investor education and protection fund at the end
30 of any biennium shall not be transferred to the general revenue fund;

31 **(g) The "Whistleblower Program" is created to receive and evaluate information**
32 **received from individuals disclosing potential violations of this act while, as appropriate,**
33 **maintaining the confidentiality or anonymity of those individuals. Any acts under this**
34 **subsection shall be governed by the following:**

35 **(1) The commissioner may, under this subsection and section 409.6-605(a), adopt**
36 **and amend rules necessary or appropriate to implement this program;**

37 **(2) The commissioner may pay a monetary award to individuals participating in**
38 **the whistleblower program who provide information that contributes to the successful**
39 **resolution of an administrative or civil enforcement action. Payment of an award under**
40 **this paragraph shall be in the sole discretion of the commissioner. An award paid under**
41 **this paragraph is governed by the following:**

42 **(A) The determination of the amount of an award shall be in the sole discretion of**
43 **the commissioner. The commissioner may pay an award or awards not exceeding an**
44 **amount equal to thirty percent, in total, of the monetary sanctions imposed in the action**
45 **or related actions to one or more whistleblowers who voluntarily provided information to**
46 **the commissioner that led to the successful enforcement of the action. Any amount payable**
47 **under this subparagraph shall be paid from the investor education and protection fund**
48 **described in subsection (f) of this section;**

49 **(B) No award under this paragraph shall be made to any whistleblower:**

- 50 (i) Who is a member, officer, or employee of any regulatory agency;
- 51 (ii) Who is convicted of a criminal violation related to the action for which a
52 whistleblower could otherwise receive an award; or
- 53 (iii) Who fails to submit information in a manner acceptable and useful to the
54 commissioner;
- 55 (3) The commissioner shall generally inform the public of the whistleblower
56 program and make available a toll-free telephone number to receive disclosures from
57 whistleblowers. Every broker-dealer, investment advisor, issuer, firm, or any other person
58 who employs an individual who is engaged in the business of effecting transactions in
59 securities or advising others as to the value of securities is required to post and keep posted
60 on its premises, in conspicuous places where employees are employed, a notice regarding
61 the whistleblower program. The posting shall include the toll-free number described in
62 this paragraph and the whistleblower program's web address. The same information shall
63 also be provided to all new employees during routine new employee orientation. The
64 posting can be verified at any time during routine or for cause audits or inspections by a
65 representative of the commissioner;
- 66 (4) No broker-dealer, investment advisor, issuer, firm, or other person who employs
67 an individual who is engaged in the business of effecting transactions in securities or
68 advising others as to the value of securities shall discharge, demote, suspend, threaten,
69 harass, or in any other manner discriminate against a whistleblower in the terms and
70 conditions of employment because of any lawful act done by the whistleblower in providing
71 information to the commissioner in accordance with this subsection or in assisting in any
72 investigation or judicial or administrative action based upon or related to such
73 information. A whistleblower who alleges discharge or other discrimination in violation
74 of this paragraph may bring an action under this paragraph in the appropriate circuit
75 court. A whistleblower prevailing in any action brought under this paragraph shall be
76 entitled to all relief necessary to make such whistleblower whole, including reinstatement
77 with the same seniority status that the whistleblower would have had but for the
78 discrimination; the amount of back pay, with interest; and compensation for any special
79 damages sustained as a result of the discrimination, including litigation costs, expert
80 witness fees, and reasonable attorneys' fees;
- 81 (5) The commissioner may establish incentives for individuals and companies to
82 fully and truthfully cooperate and assist with investigations and enforcement actions. The
83 granting of any incentives shall be in the sole discretion of the commissioner or a
84 representative of the commissioner. Incentives may include:

85 (A) Assurances that any statements made by a whistleblower shall not be used
86 against that person in subsequent proceedings, except that the commissioner may use the
87 statements made as a source of leads to discover additional evidence and for impeachment
88 or rebuttal purposes if the person testifies or argues inconsistently in a subsequent
89 proceeding;

90 (B) Immunity from enforcement actions;

91 (C) Reduced civil penalties; or

92 (D) A request submitted by the commissioner to a prosecutor that the
93 whistleblower be provided incentives in any subsequent proceeding brought by such
94 prosecutor;

95 (6) All information provided to the commissioner by a whistleblower shall be
96 confidential and privileged as an evidentiary matter (and shall not be subject to civil
97 discovery or other legal process) in any proceeding in any court or administrative agency
98 and shall be exempt from disclosure, in the hands of an agency, unless and until required
99 to be disclosed to a defendant or respondent in connection with a public proceeding
100 instituted by the commissioner or any other agency or regulatory entity. Without the loss
101 of its status as confidential and privileged in the hands of the commissioner, all information
102 referred to in this paragraph may, in the discretion of the commissioner, when determined
103 by the commissioner to be necessary to accomplish the purposes of this section and protect
104 investors, be made available to the attorney general, an appropriate regulatory authority,
105 a self-regulatory authority, and any other appropriate state or federal authority, each of
106 which shall maintain such information as confidential and privileged in accordance with
107 the requirements of this paragraph;

108 (7) For purposes of this subsection, the following terms shall mean:

109 (A) "Whistleblower", any person employed by a person in the business of effecting
110 transactions in securities or the business of advising others as to the value of securities or
111 the advisability of investing who discloses information regarding potential violations of this
112 act under the whistleblower program. The term includes a broker-dealer agent, an
113 investment advisor representative, an issuer agent, and any other person working for or
114 employed by a broker-dealer, an investment advisor, an issuer, or any other person
115 required to be registered under this act;

116 (B) "Monetary sanctions", any monies ordered or agreed to be paid, including, but
117 not limited to, restitution, disgorgement, civil penalties, costs, and payments as a result of
118 a successful enforcement action or settlement of a proceeding under sections 409.6-603(b),
119 409.6-604(c), and 409.6-604(h).

409.6-607. (a) Except as otherwise provided in subsection (b), records obtained by the commissioner or filed under this act, including a record contained in or filed with a registration statement, application, notice filing, or report, are public records and are available for public examination.

(b) The following records are not public records and are not available for public examination under subsection (a):

(1) A record obtained by the commissioner in connection with an audit or inspection under section 409.4-411(d) or an investigation under section 409.6-602;

(2) A part of a record filed in connection with a registration statement under sections 409.3-301 and 409.3-303 to 409.3-305 or a record under section 409.4-411(d) that contains trade secrets or confidential information if the person filing the registration statement or report has asserted a claim of confidentiality or privilege that is authorized by law;

(3) A record that is not required to be provided to the commissioner or filed under this act and is provided to the commissioner only on the condition that the record will not be subject to public examination or disclosure;

(4) A nonpublic record received from a person specified in section 409.6-608(a);

(5) Any Social Security number, residential address unless used as a business address, and residential telephone number contained in a record that is filed; [and]

(6) A record obtained by the commissioner through a designee of the commissioner that a rule or order under this act determines has been:

(A) Expunged from the commissioner's records by the designee; or

(B) Determined to be nonpublic or nondisclosable by that designee if the commissioner finds the determination to be in the public interest and for the protection of investors; **and**

(7) A record provided to the commissioner by a whistleblower, including disclosures made by a whistleblower and the identity of a whistleblower, under section 409.6-601(g), unless the commissioner deems disclosure of the information in the public interest.

(c) If disclosure is for the purpose of a civil, administrative, or criminal investigation, action, or proceeding or to a person specified in section 409.6-608(a), the commissioner may disclose a record obtained in connection with an audit or inspection under section 409.4-411(d) or a record obtained in connection with an investigation under section 409.6-602.

479.260. 1. Municipalities by ordinance may provide for fees in an amount per case to be set pursuant to sections 488.010 to 488.020, RSMo, for each municipal ordinance violation case filed before a municipal judge, and in the event a defendant pleads guilty or is found guilty, the judge may assess costs against the defendant except in those cases where the defendant is found by the judge to be indigent and unable to pay the costs. **In the event the case is dismissed**

6 **before the defendant pleads guilty or is found guilty, the municipal judge may assess**
7 **municipal court costs as determined by section 488.012, against the defendant if the**
8 **defendant consents to paying the costs except in those cases where the defendant is found**
9 **by the judge to be indigent and unable to pay the costs.** The fees authorized in this
10 subsection are in addition to service charges, witness fees and jail costs that may otherwise be
11 authorized to be assessed, but are in lieu of other court costs. The fees provided by this
12 subsection shall be collected by the municipal division clerk in municipalities electing or
13 required to have violations of municipal ordinances tried before a municipal judge pursuant to
14 section 479.020, or to employ judicial personnel pursuant to section 479.060, and disbursed as
15 provided in subsection 1 of section 479.080. Any other court costs required in connection with
16 such cases shall be collected and disbursed as provided in sections 488.010 to 488.020, RSMo;
17 provided that, each municipal court may establish a judicial education fund in an account under
18 the control of the municipal court to retain one dollar of the fees collected on each case and to
19 use the fund only to pay for:

20 (1) The continuing education and certification required of the municipal judges by law
21 or supreme court rule; and

22 (2) Judicial education and training for the court administrator and clerks of the municipal
23 court.

24

25 Provided further, that no municipal court shall retain more than one thousand five hundred
26 dollars in the fund for each judge, administrator or clerk of the municipal court. Any excess
27 funds shall be transmitted quarterly to the general revenue fund of the county or municipal
28 treasury.

29 2. In municipal ordinance violation cases which are filed in the associate circuit division
30 of the circuit court, fees shall be assessed in each case in an amount to be set pursuant to sections
31 488.010 to 488.020, RSMo. In the event a defendant pleads guilty or is found guilty, the judge
32 shall assess costs against the defendant except in those cases where the defendant is found by the
33 judge to be indigent and unable to pay the costs. In the event a defendant is acquitted or the case
34 is dismissed, the judge shall not assess costs against the municipality. The costs authorized in
35 this subsection are in addition to service charges, witness fees and jail costs that may otherwise
36 be authorized to be assessed, but are in lieu of other court costs. The costs provided by this
37 subsection shall be collected by the municipal division clerk in municipalities electing or
38 required to have violations of municipal ordinances tried before a municipal judge pursuant to
39 section 479.020, or to employ judicial personnel pursuant to section 479.060, and disbursed as
40 provided in subsection 2 of section 479.080. Any other court costs required in connection with
41 such cases shall be collected and disbursed as provided in sections 488.010 to 488.020, RSMo.

42 3. A municipality, when filing cases before an associate circuit judge, shall not be
43 required to pay fees.

44 4. No fees for a judge, city attorney or prosecutor shall be assessed as costs in a
45 municipal ordinance violation case.

46 5. In municipal ordinance violation cases, when there is an application for a trial de
47 novo, there shall be an additional fee in an amount to be set pursuant to sections 488.010 to
48 488.020, RSMo, which shall be assessed in the same manner as provided in subsection 2 of this
49 section.

50 6. Municipalities by ordinance may provide for a schedule of costs to be paid in
51 connection with pleas of guilty which are processed in a traffic violations bureau. If a
52 municipality files its municipal ordinance violation cases before a municipal judge, such costs
53 shall not exceed the court costs authorized by subsection 1 of this section. If a municipality files
54 its municipal ordinance violations cases in the associate circuit division of the circuit court, such
55 costs shall not exceed the court costs authorized by subsection 2 of this section.

**488.5032. In the event a criminal case is dismissed in a circuit court in this state
2 before the defendant pleads guilty or is found guilty, the circuit judge may assess costs as
3 determined by section 488.012, RSMo, against any defendant if the defendant consents to
4 paying the costs except in those cases where the defendant is found by the judge to be
5 indigent and unable to pay the costs.**

488.5050. 1. In addition to any other surcharges authorized by statute, the clerk of each
2 court of this state shall collect the surcharges provided for in subsection 2 of this section.

3 2. A surcharge of thirty dollars shall be assessed as costs in each circuit court proceeding
4 filed within this state in all criminal cases in which the defendant pleads guilty [or nolo
5 contendere to] , **is found guilty** or is convicted of a felony, except when the defendant pleads
6 guilty or is found guilty of a class B felony, class A felony, or an unclassified felony, under
7 chapter 195, RSMo, in which case, the surcharge shall be sixty dollars. A surcharge of fifteen
8 dollars shall be assessed as costs in each court proceeding filed within this state in all **other**
9 criminal cases, except for traffic violations cases in which the defendant pleads guilty [or nolo
10 contendere to] , **is found guilty** or is convicted of a misdemeanor.

11 3. Notwithstanding any other provisions of law, the moneys collected by clerks of the
12 courts pursuant to the provisions of subsection 1 of this section shall be collected and disbursed
13 in accordance with sections 488.010 to 488.020, and shall be payable to the state treasurer.

14 4. [If in the immediate previous fiscal year, the state's general revenue did not increase
15 by two percent or more, the state treasurer shall deposit such moneys or other gifts, grants, or
16 moneys received on a monthly basis into the state general revenue fund. Otherwise the state

17 treasurer shall deposit such moneys in accordance with the provisions of subsection 5 of this
18 section.

19 5.] The state treasurer shall deposit such moneys or other gifts, grants, or moneys
20 received on a monthly basis into the "DNA Profiling Analysis Fund", which is hereby created
21 in the state treasury. The fund shall be administered by the department of public safety. The
22 moneys deposited into the DNA profiling analysis fund shall be used only [for DNA profiling
23 analysis of convicted offender samples performed] **by the highway patrol crime lab** to fulfill
24 the purposes of the DNA profiling system pursuant to section 650.052, RSMo. Notwithstanding
25 the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at
26 the end of the biennium shall not revert to the credit of the general revenue fund.

27 [6.] **5.** The provisions of subsections 1 and 2 of this section shall expire on August 28,
28 2013.

491.170. When a writ of attachment, authorized by section 491.160, shall be executed,
2 the sheriff or other officer shall discharge such witness, on his entering into a recognizance to
3 the state of Missouri, with sufficient security, [in the sum of one] **not less than five** hundred
4 dollars, which the officer executing the writ is authorized to take, conditioned for the appearance
5 and due attendance of such witness according to the exigency of such writ.

537.800. Sections 537.800 to 537.810 shall be known as the "Missouri False Claims
2 **Act".**

537.802. 1. As used in this section the following terms shall mean:

2 (1) **"Claim", includes any request or demand, whether under a contract or**
3 **otherwise, for money or property which is made to a contractor, grantee, or other recipient**
4 **if the government provides any portion of the money or property which is requested or**
5 **demanded, or if the government will reimburse such contractor, grantee, or other recipient**
6 **for any portion of the money or property which is requested or demanded;**

7 (2) **"Government", the state of Missouri, or political subdivision, including but not**
8 **limited to any public school district, public charter school of the state, or municipal**
9 **corporation;**

10 (3) **"Knowing" and "knowingly", that a person, with respect to information:**

11 (a) **Has actual knowledge of the information;**

12 (b) **Acts in deliberate ignorance of the truth or falsity of the information; or**

13 (c) **Acts in reckless disregard of the truth or falsity of the information;**

14

15 **and no proof of specific intent to defraud is required;**

16 (4) **"Person", any individual, entity, corporation, partnership or association, officer**
17 **or employee of any state or private entity.**

18 **2. Any person who:**

19 **(1) Knowingly presents, or causes to be presented, false or fraudulent claim for**
20 **payment or approval to an officer or employee of the state of Missouri, or political**
21 **subdivision, or public school district, or public charter school of the state;**

22 **(2) Knowingly makes, uses, or causes to be made or used, a false record or**
23 **statement to get a false or fraudulent claim paid or approved by the government;**

24 **(3) Conspires to defraud the government by getting a false or fraudulent claim**
25 **allowed or paid;**

26 **(4) Has possession, custody, or control of property or money used, or to be used,**
27 **by the government and, intending to defraud the government or willfully to conceal the**
28 **property, delivers, or causes to be delivered, less property than the amount for which the**
29 **person receives a certificate or receipt;**

30 **(5) Authorized to make or deliver a document certifying receipt of property used,**
31 **or to be used, by the government and, intending to defraud the government, makes or**
32 **delivers the receipt without completely knowing that the information on the receipt is true;**

33 **(6) Knowingly buys, or receives as a pledge of an obligation or debt, public**
34 **property from an officer, employee, or agent of the government who lawfully may not sell**
35 **or pledge the property;**

36 **(7) Knowingly makes, uses, or causes to be made or used, a false record or**
37 **statement to conceal, avoid, or decrease an obligation to pay or transmit money or property**
38 **to the government; or**

39 **(8) Violates section 105.452, 105.454, 576.010, 576.020, 576.030, 576.040, 576.050,**
40 **or 576.080;**

41

42 **is liable to the state of Missouri, or political subdivision, or public school district, or public**
43 **charter school of the state effected for a civil penalty of not less than ten thousand dollars**
44 **and not more than one hundred thousand dollars, plus three times the amount of damages**
45 **which the government sustains because of the act of that person, except that if the court**
46 **finds that:**

47 **(a) The person committing the violation of this subsection furnished officials of the**
48 **government entity responsible for investigating false claims violations with all information**
49 **known to such person about the violation within thirty days after the date on which the**
50 **defendant first obtained the information;**

51 **(b) Such person fully cooperated with any government investigation of such**
52 **violation; and**

53 (c) At the time such person furnished the government with the information about
54 the violation, no criminal prosecution, civil action, or administrative action had
55 commenced under this act with respect to such violation, and the person did not have
56 actual knowledge of the existence of an investigation into such violation;

57

58 the court may assess not less than two times the amount of damages which the government
59 sustains because of the act of the person. A person violating this subsection shall also be
60 liable to the government for the costs of a civil action brought to recover any such penalty
61 or damages.

62 3. Any information furnished under paragraphs (a) to (c) of subdivision (8) of
63 subsection 2 of this section shall be exempt from disclosure under this section.

64 4. This section does not apply to claims, records, or statements made under the
65 Internal Revenue Code of 1986, as amended.

 537.804. 1. The attorney general of Missouri diligently shall investigate a violation
2 under section 537.802. If the attorney general finds that a person has violated or is
3 violating section 537.802, the attorney general may bring a civil action under this section
4 against the person.

5 2. (1) A person may bring a civil action for a violation of section 537.802 for the
6 person and for the government. The action shall be brought in the name of the
7 government. The action may be dismissed only if the court and the attorney general give
8 written consent to the dismissal and their reasons for consenting.

9 (2) A copy of the complaint and written disclosure of substantially all material
10 evidence and information the person possesses shall be served on the government under
11 the Missouri Supreme Court rules of civil procedure. The complaint shall be filed in
12 camera, shall remain under seal for at least sixty days, and shall not be served on the
13 defendant until the court so orders. The government may elect to intervene and proceed
14 with the action within sixty days after it receives both the complaint and material evidence
15 information.

16 (3) The government may, for good cause shown, move the court for extensions of
17 time during which the complaint remains under seal under subdivision (2) of this
18 subsection. Any such motions may be supported by affidavits or other submissions in
19 camera. The defendant shall not be required to respond to any complaint filed under this
20 section until thirty days after the complaint is unsealed and served upon the defendant
21 under the Missouri Supreme Court rules of civil procedure.

22 (4) Before expiration of the sixty-day period or any extensions obtained under
23 subdivision (3) of this subsection, the government shall:

24 (a) Proceed with the action, in which case the action shall be conducted by the
25 government; or

26 (b) Notify the court that it declines to take over the action, in which case the person
27 bringing the action shall have the right to conduct the action.

28 (5) When a person brings an action under this subsection, no person other than the
29 government may intervene or bring a related action based on the facts underlying the
30 pending action.

31 3. If the government proceeds with the action, it shall have the primary
32 responsibility for prosecuting the action, and shall not be bound by an act of the person
33 bringing the action. Such person shall have the right to continue as a party to the action,
34 subject to the limitations set forth in subsection 4 of this section.

35 4. (1) The government may dismiss the action notwithstanding the objections of
36 the person initiating the action if the person has been notified by the government of the
37 filing of the motion and the court has provided the person with an opportunity for a
38 hearing on the motion.

39 (2) The government may settle the action with the defendant notwithstanding the
40 objections of the person initiating the action if the court determines, after a hearing, that
41 the proposed settlement is fair, adequate, and reasonable under all the circumstances.
42 Upon a showing of good cause, such hearing may be held in camera.

43 (3) Upon a showing by the government that unrestricted participation during the
44 course of the litigation by the person initiating the action would interfere with or unduly
45 delay the government's prosecution of the case, or would be repetitious, irrelevant, or for
46 purposes of harassment, the court may, in its discretion, impose limitations on the person's
47 participation, such as:

48 (a) Limiting the number of witnesses the person may call;

49 (b) Limiting the length of the testimony of such witnesses;

50 (c) Limiting the person's cross-examination of witnesses; or

51 (d) Otherwise limiting the participation by the person in the litigation.

52 (4) Upon a showing by the defendant that unrestricted participation during the
53 course of the litigation by the person initiating the action would be for purposes of
54 harassment or would cause the defendant undue burden or unnecessary expense, the court
55 may limit the participation by the person in the litigation.

56 5. If the government elects not to proceed with the action, the person who initiated
57 the action shall have the right to conduct the action. If the government so requests, it shall
58 be served with copies of all pleadings filed in the action and shall be supplied with copies
59 of all deposition transcripts, at the government's expense. When a person proceeds with

60 the action, the court, without limiting the status and rights of the person initiating the
61 action, may nevertheless permit the government to intervene at a later date upon a showing
62 of good cause.

63 **6. Whether or not the government proceeds with the action, upon a showing by the**
64 **government that certain actions of discovery by the person initiating the action would**
65 **interfere with the government's investigation or prosecution of a criminal or civil matter**
66 **arising out of the same facts, the court may stay such discovery for a period of not more**
67 **than sixty days. Such showing shall be conducted in camera. The court may extend the**
68 **sixty-day period upon a further showing in camera that the government has pursued the**
69 **criminal or civil investigation or proceedings with reasonable diligence and any proposed**
70 **discovery in the civil action will interfere with the ongoing criminal or civil investigation**
71 **or proceedings.**

72 **7. Notwithstanding subsection 2 of this section, the government may elect to pursue**
73 **its claim through any alternate remedy available to the government, including any**
74 **administrative proceeding to determine a civil money penalty. If any such alternate**
75 **remedy is pursued in another proceeding, the person initiating the action shall have the**
76 **same rights in such proceeding as such person would have had if the action had continued**
77 **under this section. Any finding of fact or conclusion of law made in such other proceeding**
78 **that has become final shall be conclusive on all parties to an action under this section. For**
79 **purposes of the preceding sentence, a finding or conclusion is final if it has been finally**
80 **determined on appeal to the appropriate court of the United States, if all time for filing**
81 **such an appeal with respect to the finding or conclusion has expired, or if the finding or**
82 **conclusion is not subject to judicial review.**

537.806. 1. If the government proceeds with an action brought by a person under
2 **subsection 2 of section 537.804, such person shall, subject to the second sentence of this**
3 **subsection, receive at least fifteen percent but not more than twenty-five percent of the**
4 **proceeds of the action or settlement of the claim, depending upon the extent to which the**
5 **person substantially contributed to the prosecution of the action. Where the action is one**
6 **which the court finds to be based primarily on disclosures of specific information, other**
7 **than information provided by the person bringing the action, relating to allegations or**
8 **transactions in a criminal, civil, or administrative hearing, in a congressional,**
9 **administrative, or government report, hearing, audit, or investigation, or from the news**
10 **media, the court may award such sums as it considers appropriate, but in no case more**
11 **than ten percent of the proceeds, taking into account the significance of the information**
12 **and the role of the person bringing the action in advancing the case to litigation. Any**
13 **payment to a person under the first or second sentence of this subsection shall be made**

14 from the proceeds. Any such person shall also receive an amount for reasonable expenses
15 which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and
16 costs. All such expenses, fees, and costs shall be awarded against the defendant.

17 2. If the government does not proceed with an action under subsection 2 of section
18 537.804, the person bringing the action or settling the claim shall receive an amount which
19 the court decides is reasonable for collecting the civil penalty and damages. The amount
20 shall not be less than twenty-five percent and not more than thirty percent of the proceeds
21 of the action or settlement and shall be paid out of such proceeds. Such person shall also
22 receive an amount for reasonable expenses which the court finds to have been necessarily
23 incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall
24 be awarded against the defendant.

25 3. Whether or not the government proceeds with the action, if the court finds that
26 the action was brought by a person who planned and initiated the violation of section
27 537.802 upon which the action was brought, then the court may, to the extent the court
28 considers appropriate, reduce the share of the proceeds of the action which the person
29 would otherwise receive under subsection 1 or 2 of this section, taking into account the role
30 of that person in advancing the case to litigation and any relevant circumstances pertaining
31 to the violation. If the person bringing the action is convicted of criminal conduct arising
32 from his or her role in the violation of section 537.802, that person shall be dismissed from
33 the civil action and shall not receive any share of the proceeds of the action. Such dismissal
34 shall not prejudice the right of the government to continue the action, represented by the
35 attorney general.

36 4. If the government does not proceed with the action and the person bringing the
37 action conducts the action, the court may award to the defendant its reasonable attorneys'
38 fees and expenses if the defendant prevails in the action and the court finds that the claim
39 of the person bringing the action was clearly frivolous, clearly vexatious, or brought
40 primarily for purposes of harassment.

41 5. (1) No court shall have jurisdiction over an action brought by a former or
42 present member of the armed forces under subsection 2 of section 537.804 against a
43 member of the armed forces arising out of such person's service in the armed forces.

44 (2) No court shall have jurisdiction over an action brought under subsection 2 of
45 section 537.804 against a member of the legislature, a member of the judiciary, or a senior
46 executive branch official if the action is based on evidence or information known to the
47 government when the action was brought.

48 **(3) In no event may a person bring an action under subsection 2 of section 537.804**
49 **which is based upon allegations or transactions which are the subject of a civil suit or an**
50 **administrative civil money penalty proceeding in which the government is already a party.**

51 **(4) No court shall have jurisdiction over an action under section 537.804 based**
52 **upon the public disclosure of allegations or transactions in a criminal, civil, or**
53 **administrative hearing, in a legislative, administrative, or government report, hearing,**
54 **audit, or investigation, or from the news media, unless the action is brought by the attorney**
55 **general or the person bringing the action is an original source of the information.**

56 **6. As used in this section "original source" means an individual who has direct and**
57 **independent knowledge of the information on which the allegations are based and has**
58 **voluntarily provided the information to the government before filing an action under**
59 **section 537.804 which is based on the information.**

60 **7. The government is not liable for expenses which a person incurs in bringing an**
61 **action under section 537.804.**

537.808. 1. In civil actions brought under section 537.804 by the state of Missouri
2 **the provisions of sections 537.800 to 537.810 shall apply.**

3 **2. Any employee who is discharged, demoted, suspended, threatened, harassed, or**
4 **in any other manner discriminated against in the terms and conditions of employment by**
5 **his or her employer because of lawful acts done by the employee on behalf of the employee**
6 **or others in furtherance of an action under this section, including investigation for,**
7 **initiation of, testimony for, or assistance in an action filed or to be filed under section**
8 **537.804, shall be entitled to all relief necessary to make the employee whole. Such relief**
9 **shall include reinstatement with the same seniority status such employee would have had**
10 **but for the discrimination, two times the amount of back pay, interest on the back pay, and**
11 **compensation for any special damages sustained as a result of the discrimination, including**
12 **litigation costs and reasonable attorneys' fees. An employee may bring an action in the**
13 **appropriate circuit court for the relief provided in this subsection.**

537.810. This act shall not apply to hospitals and medical providers governed under
2 **section 208.164 or sections 191.900 to 191.910.**

 545.030. 1. No indictment or information shall be deemed invalid, nor shall the trial,
2 judgment or other proceedings thereon be stayed, arrested or in any manner affected:

3 **(1) By reason of the omission or misstatement of the defendant's title, occupation, estate**
4 **or degree, or of the county or town of his residence; or**

5 **(2) By the omission of the words, "with force and arms", or any words with similar**
6 **import; or**

7 (3) By omitting to charge any offense to have been contrary to a statute or statutes,
8 notwithstanding such offense may have been created or the punishment declared by a statute; or

9 (4) For the omission of the words "as appears by the record"; [nor] **or**

10 (5) For omitting to state the time at which the offense was committed, in any case where
11 time is not of the essence of the offense; [nor] **or**

12 (6) For stating the time imperfectly; [nor] **or**

13 (7) For stating the offense to have been committed on a day subsequent to the finding
14 of the indictment or information, or an impossible day, or on a day that never happened; [nor]
15 **or**

16 (8) For want of a proper or perfect venue; [nor] **or**

17 (9) For want of any venue at all; [nor] **or**

18 (10) For want of a statement of the value or price of any matter or thing, or the amount
19 of damages, injury or spoil in any case where the value or price, or the amount of damages, injury
20 or spoil is not of the essence of the offense; [nor] **or**

21 (11) For the want of an allegation of the time or place of any material fact, when the time
22 and place have once been stated in the indictment or information; [nor] **or**

23 (12) That dates and numbers are represented by figures; [nor] **or**

24 (13) For an omission to allege that the grand jurors were impaneled, sworn or charged;
25 [nor] **or**

26 (14) For any surplusage or repugnant allegation, when there is sufficient matter alleged
27 to indicate the crime and person charged; [nor] **or**

28 (15) For want of the averment of any matter not necessary to be proved; [nor] **or**

29 (16) For any error committed at the instance or in favor of the defendant; [nor] **or**

30 (17) Because the evidence shows or tends to show him to be guilty of a higher degree
31 of the offense than that of which he is convicted; [nor] **or**

32 (18) **In the case of any sexual offense or any felony offense for the omission of the**
33 **defendant's name, if the identity of the defendant is unknown at the time the indictment**
34 **or information is brought and the indictment or information describes the defendant as a**
35 **person whose name is unknown but who has a particular DNA profile. As used in this**
36 **subdivision "DNA profile" means an analysis that utilizes the restriction fragment length**
37 **polymorphism analysis or polymerase chain reaction analysis of DNA resulting in the**
38 **identification of an individual's patterned chemical structure of genetic information; or**

39 (19) For any other defect or imperfection which does not tend to the prejudice of the
40 substantial rights of the defendant upon the merits.

41 2. Provided, that nothing herein shall be so construed as to render valid any indictment
42 which does not fully inform the defendant of the offense of which he stands charged.

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

- 2 **(1) "Accusatory instrument", a warrant of arrest, information or indictment;**
- 3 **(2) "Accused", an individual accused of a crime, but not yet charged with a crime;**
- 4 **(3) "Defendant", any person charged with a criminal offense;**
- 5 **(4) "Deferred prosecution", the suspension of a criminal case for a specified period**
6 **upon the request of both the prosecuting attorney and the accused or the defendant;**
- 7 **(5) "Diversionary screening", the discretionary power of the prosecuting attorney**
8 **to suspend all formal prosecutorial proceedings against a person who has become involved**
9 **in the criminal justice system as an accused or defendant;**
- 10 **(6) "Prosecution diversion", the imposition of conditions of behavior and conduct**
11 **by the prosecuting attorney upon an accused or defendant for a specified period of time**
12 **as an alternative to proceeding to adjudication on a complaint, information or indictment;**
- 13 **(7) "Prosecuting attorney", includes the prosecuting attorney or circuit attorney**
14 **for each county of the state and the City of St. Louis.**

15 **2. Each prosecuting attorney in the state of Missouri shall have the authority to,**
16 **upon agreement with an accused or a defendant, divert a criminal case to a prosecution**
17 **diversion program for a period of six months to two years, thus allowing for any statute**
18 **of limitations to be tolled for that time alone. The period of diversion may be extended by**
19 **the prosecuting attorney as a disciplinary measure or to allow sufficient time for**
20 **completion of any portion of the prosecution diversion including restitution; provided,**
21 **however, that no extension of such diversion shall be for a period of more than two years.**

22 **3. The prosecuting attorney may divert cases, under this system, out of the criminal**
23 **justice system where the prosecuting attorney determines that the advantages of utilizing**
24 **prosecution diversion outweigh the advantages of immediate court activity.**

25 **4. Prior to or upon the issuance of an accusatory instrument, with consent of the**
26 **accused or defendant, other than for an offense enumerated in this section, the prosecuting**
27 **attorney may forego continued prosecution upon the parties' agreement to a prosecution**
28 **diversion plan. The prosecution diversion plan shall be for a specified period and be in**
29 **writing. The prosecuting attorney has the sole authority to develop diversionary program**
30 **requirements, but minimum requirements are as follows:**

- 31 **(1) The alleged crime is nonviolent, nonsexual and does not involve a child victim**
32 **or possession of an unlawful weapon;**
- 33 **(2) The accused or defendant must submit to all program requirements;**
- 34 **(3) Any newly discovered criminal behavior while in a prosecution diversion**
35 **program will immediately forfeit his or her right to continued participation in said**
36 **program at the sole discretion of the prosecuting attorney;**

37 (4) The alleged crime does not also constitute a violation of a current condition of
38 probation or parole; and

39 (5) Any other criteria established by the prosecuting attorney.

40 **5. During any period of prosecution diversion, the prosecuting attorney may impose**
41 **conditions upon the behavior and conduct of the accused or defendant that assures the**
42 **safety and well-being of the community as well as that of the accused or defendant. The**
43 **conditions imposed by the prosecuting attorney shall include, but are not limited to, the**
44 **following:**

45 (1) Requiring the accused or defendant to remain free of any criminal behavior
46 during the entire period of prosecution diversion;

47 (2) Payment of restitution to any victim of the related offense;

48 (3) Requiring the accused to pay an administrative handling cost of one hundred
49 dollars for each case diverted under this section. Notwithstanding the provisions of
50 sections 50.525 to 50.745, the costs provided for in this subsection shall be deposited by the
51 county treasurer into a separate interest-bearing fund to be expended by the prosecuting
52 attorney or circuit attorney. This fund shall be known as the "Administrative Handling
53 Cost Fund", and it shall be the same fund for deposits under this section and under section
54 570.120. The funds shall be expended, upon warrants issued by the prosecuting attorney
55 or circuit attorney directing the treasurer to issue checks thereon, only for purposes related
56 to that authorized by subsection 4 of this section. Notwithstanding the provisions of any
57 other law, in addition to the administrative handling cost, the prosecuting attorney or
58 circuit attorney shall collect an additional cost of five dollars per case for deposit to the
59 Missouri office of prosecution services fund established in subsection 2 of section 56.765.
60 All moneys collected under this section which are payable to the Missouri office of
61 prosecution services fund shall be transmitted at least monthly by the county treasurer to
62 the director of revenue who shall deposit the amount collected to the credit of the Missouri
63 office of prosecution services fund under the procedure established under subsection 2 of
64 section 56.765.

65 **6. The moneys deposited in the fund may be used by the prosecuting attorney or**
66 **circuit attorney for office supplies, postage, books, training, office equipment, capital**
67 **outlay, expenses of trial and witness preparation, additional employees for the staff of the**
68 **prosecuting attorney or circuit attorney, employees' salaries, and for other lawful expenses**
69 **incurred by the prosecuting attorney or circuit attorney in the operation of that office.**

70 **7. This fund may be audited by the state auditor's office or the appropriate**
71 **auditing agency.**

72 **8. If the moneys collected and deposited into this fund are not totally expended**
73 **annually, then the unexpended balance shall remain in the fund and the balance shall be**
74 **kept in the fund to accumulate from year to year.**

75 **9. The responsibility and authority to screen or divert specific cases, or to refuse**
76 **to screen or divert specific cases, shall rest within the sole judgment and discretion of the**
77 **prosecuting attorney as part of their official duties as prosecuting attorney. The decision**
78 **of the prosecuting attorney regarding diversion shall not be subject to appeal nor be raised**
79 **as a defense in any prosecution of a criminal case involving the accused or defendant.**

80 **10. Any person participating in the program shall have the right to:**

81 **(1) Insist on criminal prosecution for the offense for which they are accused at any**
82 **time;**

83 **(2) The right to counsel of the person's choosing during all phases of the**
84 **prosecution diversion proceedings unless the right to counsel is knowingly and voluntarily**
85 **waived by the accused or defendant.**

86 **11. In conducting the program, the prosecuting attorney may require at any point**
87 **the reinitiation of criminal proceedings when, in his or her judgment, such is warranted.**

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

98 **13. Any person supervising or employing an accused or defendant under the**
99 **program shall report to the prosecuting attorney any violation of the terms of the**
100 **prosecution diversion program.**

101 **14. After completion of the program and any conditions imposed upon the accused**
102 **or defendant, to the satisfaction of the prosecuting attorney, the individual shall be entitled**
103 **to a dismissal or alternative disposition of charges against them. Such disposition may, in**
104 **the discretion of the prosecuting attorney, be without prejudice to the state of Missouri for**
105 **the reinstitution of criminal proceedings, within the statute of limitations, upon any**
106 **subsequent criminal activity on the part of the accused. Any other provision of law**

107 **notwithstanding, such individual shall be required to pay any associated costs prior to**
108 **dismissal of pending charges.**

559.036. 1. A term of probation commences on the day it is imposed. Multiple terms
2 of Missouri probation, whether imposed at the same time or at different times, shall run
3 concurrently. Terms of probation shall also run concurrently with any federal or other state jail,
4 prison, probation or parole term for another offense to which the defendant is or becomes subject
5 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
7 before completion of the specific term fixed under section 559.016 if warranted by the conduct
8 of the defendant and the ends of justice. The court may extend the term of the probation, but no
9 more than one extension of any probation may be ordered except that the court may extend the
10 term of probation by one additional year by order of the court if the defendant admits he or she
11 has violated the conditions of probation or is found by the court to have violated the conditions
12 of his or her probation. Total time on any probation term, including any extension shall not
13 exceed the maximum term established in section 559.016. Procedures for termination, discharge
14 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
16 or termination of the probation term, the court may continue him on the existing conditions, with
17 or without modifying or enlarging the conditions or extending the term, or, if such continuation,
18 modification, enlargement or extension is not appropriate, may revoke probation and order that
19 any sentence previously imposed be executed. If imposition of sentence was suspended, the
20 court may revoke probation and impose any sentence available under section 557.011, RSMo.
21 The court may mitigate any sentence of imprisonment by reducing the prison or jail term by all
22 or part of the time the defendant was on probation. The court may, upon revocation of probation,
23 place an offender on a second term of probation. Such probation shall be for a term of probation
24 as provided by section 559.016, notwithstanding any amount of time served by the offender on
25 the first term of probation.

4. Probation shall not be revoked without giving the probationer notice and an
27 opportunity to be heard on the issues of whether he violated a condition of probation and, if he
28 did, whether revocation is warranted under all the circumstances.

5. The prosecuting or circuit attorney may file a motion to revoke probation or at any
30 time during the term of probation, the court may issue a notice to the probationer to appear to
31 answer a charge of a violation, and the court may issue a warrant of arrest for the violation. Such
32 notice shall be personally served upon the probationer. The warrant shall authorize the return
33 of the probationer to the custody of the court or to any suitable detention facility designated by
34 the court. Upon the filing of the prosecutor's or circuit attorney's motion or on the court's own

35 motion, the court may immediately enter an order suspending the period of probation and may
36 order a warrant for the defendant's arrest. The probation shall remain suspended until the court
37 rules on the prosecutor's or circuit attorney's motion, or until the court otherwise orders the
38 probation reinstated.

39 6. The power of the court to revoke probation shall extend for the duration of the term
40 of probation designated by the court and for any further period which is reasonably necessary for
41 the adjudication of matters arising before its expiration, provided that some affirmative
42 manifestation of an intent to conduct a revocation hearing occurs prior to the expiration of the
43 period and that every reasonable effort is made to notify the probationer and to conduct the
44 hearing prior to the expiration of the period.

45 **7. A defendant shall not be entitled to an automatic change of judge in a probation**
46 **revocation proceeding.**

559.100. 1. The circuit courts of this state shall have power, herein provided, to place
2 on probation or to parole persons convicted of any offense over which they have jurisdiction,
3 except as otherwise provided in sections 195.275 to 195.296, RSMo, section 558.018, RSMo,
4 section 559.115, section 565.020, RSMo, sections 566.030, 566.060, 566.067, 566.151, and
5 566.213, RSMo, section 571.015, RSMo, and subsection 3 of section 589.425, RSMo.

6 2. The circuit court shall have the power to revoke the probation or parole previously
7 granted and commit the person to the department of corrections. The circuit court shall
8 determine any conditions of probation or parole for the defendant that it deems necessary to
9 ensure the successful completion of the probation or parole term, including the extension of any
10 term of supervision for any person while on probation or parole. The circuit court may require
11 that the defendant pay restitution for his crime. The probation or parole may be revoked for
12 failure to pay restitution or for failure to conform his behavior to the conditions imposed by the
13 circuit court. The circuit court may, in its discretion, credit any period of probation or parole as
14 time served on a sentence.

15 **3. Restitution, whether court ordered as provided in subsection 2 of this section or**
16 **agreed to by the parties, or as enforced under section 558.011, shall be paid through the**
17 **office of the prosecuting attorney or circuit attorney. Nothing in this section shall prohibit**
18 **the prosecuting attorney or circuit attorney from contracting with or utilizing another**
19 **entity for the collection of restitution and costs under this section. When ordered by the**
20 **court, interest shall be allowed under subsection 1 of section 408.040. In addition to all**
21 **other costs and fees allowed by law, each prosecuting attorney or circuit attorney who**
22 **takes any action to collect restitution shall collect from the person paying restitution an**
23 **administrative handling cost. The cost shall be twenty-five dollars for restitution less than**
24 **one hundred dollars and fifty dollars for restitution of one hundred dollars but less than**

25 two hundred fifty dollars. For restitution of two hundred fifty dollars or more an
26 additional fee of ten percent of the total restitution shall be assessed, with a maximum fee
27 for administrative handling costs not to exceed seventy-five dollars total. In addition to the
28 administrative handling costs, an installment cost shall be assessed in the amount of two
29 dollars per installment, excepting the first installment, until such total amount of
30 restitution is paid in full. Notwithstanding the provisions of sections 50.525 to 50.745, the
31 costs provided for in this subsection shall be deposited by the county treasurer into a
32 separate interest-bearing fund to be expended by the prosecuting attorney or circuit
33 attorney. This fund shall be known as the "Administrative Handling Cost Fund", and it
34 shall be the fund for deposits under this section and under section 570.120. The funds shall
35 be expended, upon warrants issued by the prosecuting attorney or circuit attorney
36 directing the treasurer to issue checks thereon, only for purposes related to that authorized
37 by subsection 4 of this section. Notwithstanding the provisions of any other law, in
38 addition to the administrative handling cost, the prosecuting attorney or circuit attorney
39 shall collect an additional cost of five dollars per each crime victim to whom restitution is
40 paid for deposit to the Missouri office of prosecution services fund established in
41 subsection 2 of section 56.765. All moneys collected under this section which are payable
42 to the Missouri office of prosecution services fund shall be transmitted at least monthly by
43 the county treasurer to the director of revenue who shall deposit the amount collected to
44 the credit of the Missouri office of prosecution services fund under the procedure
45 established under subsection 2 of section 56.765. As used in this subsection, "crime victim"
46 means any natural person or their survivors or legal guardians, the estate of a deceased
47 person, a for-profit corporation or business entity, a nonprofit corporation or entity, a
48 charitable entity, or any governmental body or a political subdivision thereof.

49 4. The moneys deposited in the fund may be used by the prosecuting attorney or
50 circuit attorney for office supplies, postage, books, training, office equipment, capital
51 outlay, expenses of trial and witness preparation, additional employees for the staff of the
52 prosecuting or circuit attorney, employees' salaries, and for other lawful expenses incurred
53 by the prosecuting or circuit attorney in the operation of that office.

54 5. This fund may be audited by the state auditor's office or the appropriate
55 auditing agency.

56 6. If the moneys collected and deposited into this fund are not totally expended
57 annually, then the unexpended balance shall remain in the fund and the balance shall be
58 kept in the fund to accumulate from year to year.

59 7. Nothing in this section shall be construed to prohibit a crime victim from
60 pursuing other lawful remedies against a defendant for restitution.

559.105. 1. Any person who has been found guilty [of] or has pled guilty [to a violation of subdivision (2) of subsection 1 of section 569.080, RSMo, or paragraph (a) of subdivision (3) of subsection 3 of section 570.030, RSMo,] **to an offense** may be ordered by the court to make restitution to the victim for the victim's losses due to such offense. Restitution pursuant to this section shall include, but not be limited to[, the following:

(1)] a victim's reasonable expenses to participate in the prosecution of the crime[;

(2) A victim's payment for any repairs or replacement of the motor vehicle, watercraft, or aircraft; and

(3) A victim's costs associated with towing or storage fees for the motor vehicle caused by the acts of the defendant].

2. No person ordered by the court to pay restitution pursuant to this section shall be released from probation until such restitution is complete. If full restitution is not made within the original term of probation, the court shall order the maximum term of probation allowed for such offense.

3. Any person eligible to be released on parole [for a violation of subdivision (2) of subsection 1 of section 569.080, RSMo, or paragraph (a) of subdivision (3) of subsection 3 of section 570.030, RSMo, may] **shall** be required, as a condition of parole, to make restitution pursuant to this section. The board of probation and parole shall not release any person from any term of parole for such offense until the person has completed such restitution, or until the maximum term of parole for such offense has been served.

4. The court may set an amount of restitution to be paid by the defendant. Said amount may be taken from the inmate's account at the department of corrections while the defendant is incarcerated. Upon conditional release or parole, if any amount of such court-ordered restitution is unpaid, the payment of the unpaid balance may be collected as a condition of conditional release or parole by the prosecuting attorney or circuit attorney under section 559.100. The prosecuting attorney or circuit attorney may refer any failure to make such restitution as a condition of conditional release or parole to the parole board for enforcement.

559.117. 1. The director of the department of corrections is authorized to establish, as a three-year pilot program, a mental health assessment process.

2. **Only upon a motion filed by the prosecutor in a criminal case, the judge who is hearing the criminal case in a participating county may request that an offender be placed in the department of corrections for one hundred twenty days for a mental health assessment and for treatment if it appears that the offender has a mental disorder or mental illness such that the offender may qualify for probation including community psychiatric rehabilitation (CPR) programs and such probation is appropriate and not**

9 inconsistent with public safety. Before the judge rules upon the motion, the victim shall
10 be given notice of such motion and the opportunity to be heard. Upon recommendation
11 of the court, the department shall determine the offender's eligibility for the mental health
12 assessment process.

13 3. Following this assessment and treatment period, an assessment report shall be
14 sent to the sentencing court and the sentencing court may, if appropriate, release the
15 offender on probation. The offender shall be supervised on probation by a state probation
16 and parole officer, who shall work cooperatively with the department of mental health to
17 enroll eligible offenders in Community Psychiatric Rehabilitation (CPR) programs.

18 4. Notwithstanding any other provision of law, probation shall not be granted
19 under this section to offenders who:

20 (1) Have been convicted of murder in the second degree under section 565.021;

21 (2) Have been convicted of forcible rape under section 566.030;

22 (3) Have been convicted of statutory rape in the first degree under section 566.032;

23 (4) Have been convicted of forcible sodomy under section 566.060;

24 (5) Have been convicted of statutory sodomy in the first degree under section
25 566.062;

26 (6) Have been convicted of child molestation in the first degree under section
27 566.067 when classified as a class A felony;

28 (7) Have been found to be a predatory sexual offender under section 558.018; or

29 (8) Have been convicted of any offense for which there exists a statutory prohibition
30 against either probation or parole.

31 5. At the end of the three-year pilot, the director of the department of corrections
32 and the director of the department of mental health shall jointly submit recommendations
33 to the governor and to the general assembly by December 31, 2013, on whether to expand
34 the process statewide.

568.040. 1. A person commits the crime of nonsupport if such person knowingly fails
2 to provide, without good cause, adequate support for his or her spouse; a parent commits the
3 crime of nonsupport if such parent knowingly fails to provide[, without good cause,] adequate
4 support which such parent is legally obligated to provide for his or her child or stepchild who is
5 not otherwise emancipated by operation of law.

6 2. For purposes of this section:

7 (1) "Child" means any biological or adoptive child, or any child whose paternity has been
8 established under chapter 454, RSMo, or chapter 210, RSMo, or any child whose relationship
9 to the defendant has been determined, by a court of law in a proceeding for dissolution or legal
10 separation, to be that of child to parent;

11 (2) "Good cause" means any substantial reason why the defendant is unable to provide
12 adequate support. Good cause does not exist if the defendant purposely maintains his inability
13 to support;

14 (3) "Support" means food, clothing, lodging, and medical or surgical attention;

15 (4) It shall not constitute a failure to provide medical and surgical attention, if
16 nonmedical remedial treatment recognized and permitted under the laws of this state is provided.

17 3. Inability to provide support for good cause shall be an affirmative defense under this
18 section. A person who raises such affirmative defense has the burden of proving the defense by
19 a preponderance of the evidence.

20 4. The defendant shall have the burden of injecting the issues raised by [subdivisions (2)
21 and] **subdivision** (4) of subsection 2 [and subsection 3] of this section.

22 5. Criminal nonsupport is a class A misdemeanor, unless the total arrearage is in excess
23 of an aggregate of twelve monthly payments due under any order of support issued by any court
24 of competent jurisdiction or any authorized administrative agency, in which case it is a class D
25 felony.

26 6. If at any time a defendant convicted of criminal nonsupport is placed on probation or
27 parole, there may be ordered as a condition of probation or parole that the defendant commence
28 payment of current support as well as satisfy the arrearages. Arrearages may be satisfied first
29 by making such lump sum payment as the defendant is capable of paying, if any, as may be
30 shown after examination of defendant's financial resources or assets, both real, personal, and
31 mixed, and second by making periodic payments. Periodic payments toward satisfaction of
32 arrears when added to current payments due may be in such aggregate sums as is not greater than
33 fifty percent of the defendant's adjusted gross income after deduction of payroll taxes, medical
34 insurance that also covers a dependent spouse or children, and any other court or administrative
35 ordered support, only. If the defendant fails to pay the current support and arrearages as ordered,
36 the court may revoke probation or parole and then impose an appropriate sentence within the
37 range for the class of offense that the defendant was convicted of as provided by law, unless the
38 defendant proves good cause for the failure to pay as required under subsection 3 of this section.

39 7. During any period that a nonviolent defendant is incarcerated for criminal nonsupport,
40 if the defendant is ready, willing, and able to be gainfully employed during said period of
41 incarceration, the defendant, if he or she meets the criteria established by the department of
42 corrections, may be placed on work release to allow the defendant to satisfy defendant's
43 obligation to pay support. Arrearages shall be satisfied as outlined in the collection agreement.

44 8. Beginning August 28, 2009, every nonviolent first- and second-time offender then
45 incarcerated for criminal nonsupport, who has not been previously placed on probation or parole
46 for conviction of criminal nonsupport, may be considered for parole, under the conditions set

47 forth in subsection 6 of this section, or work release, under the conditions set forth in subsection
48 7 of this section.

49 9. Beginning January 1, 1991, every prosecuting attorney in any county which has
50 entered into a cooperative agreement with the [division of] child support enforcement **service**
51 **of the family support division of the department of social services** shall report to the division
52 on a quarterly basis the number of charges filed and the number of convictions obtained under
53 this section by the prosecuting attorney's office on all IV-D cases. The division shall consolidate
54 the reported information into a statewide report by county and make the report available to the
55 general public.

56 10. Persons accused of committing the offense of nonsupport of the child shall be
57 prosecuted:

58 (1) In any county in which the child resided during the period of time for which the
59 defendant is charged; or

60 (2) In any county in which the defendant resided during the period of time for which the
61 defendant is charged.

570.120. 1. A person commits the crime of passing a bad check when:

2 (1) With purpose to defraud, the person makes, issues or passes a check or other similar
3 sight order or any other form of presentment involving the transmission of account information
4 for the payment of money, knowing that it will not be paid by the drawee, or that there is no such
5 drawee; or

6 (2) The person makes, issues, or passes a check or other similar sight order or any other
7 form of presentment involving the transmission of account information for the payment of
8 money, knowing that there are insufficient funds in or on deposit with that account for the
9 payment of such check, sight order, or other form of presentment involving the transmission of
10 account information in full and all other checks, sight orders, or other forms of presentment
11 involving the transmission of account information upon such funds then outstanding, or that
12 there is no such account or no drawee and fails to pay the check or sight order or other form of
13 presentment involving the transmission of account information within ten days after receiving
14 actual notice in writing that it has not been paid because of insufficient funds or credit with the
15 drawee or because there is no such drawee.

16 2. As used in subdivision (2) of subsection 1 of this section, "actual notice in writing"
17 means notice of the nonpayment which is actually received by the defendant. Such notice may
18 include the service of summons or warrant upon the defendant for the initiation of the
19 prosecution of the check or checks which are the subject matter of the prosecution if the
20 summons or warrant contains information of the ten-day period during which the instrument may
21 be paid and that payment of the instrument within such ten-day period will result in dismissal

22 of the charges. The requirement of notice shall also be satisfied for written communications
23 which are tendered to the defendant and which the defendant refuses to accept.

24 3. The face amounts of any bad checks passed pursuant to one course of conduct within
25 any ten-day period may be aggregated in determining the grade of the offense.

26 4. Passing bad checks is a class A misdemeanor, unless:

27 (1) The face amount of the check or sight order or the aggregated amounts is five
28 hundred dollars or more; or

29 (2) The issuer had no account with the drawee or if there was no such drawee at the time
30 the check or order was issued, in which cases passing bad checks is a class C felony.

31 5. (1) In addition to all other costs and fees allowed by law, each prosecuting attorney
32 or circuit attorney who takes any action pursuant to the provisions of this section shall collect
33 from the issuer in such action an administrative handling cost. The cost shall be twenty-five
34 dollars for checks of less than one hundred dollars, and fifty dollars for checks of one hundred
35 dollars but less than two hundred fifty dollars. For checks of two hundred fifty dollars or more
36 an additional fee of ten percent of the face amount shall be assessed, with a maximum fee for
37 administrative handling costs not to exceed seventy-five dollars total. Notwithstanding the
38 provisions of sections 50.525 to 50.745, RSMo, the costs provided for in this subsection shall
39 be deposited by the county treasurer into a separate interest-bearing fund to be expended by the
40 prosecuting attorney or circuit attorney. **This fund shall be known as the "Administrative**
41 **Handling Cost Fund", and it shall be the fund for deposits under this section and under**
42 **section 559.100.** The funds shall be expended, upon warrants issued by the prosecuting attorney
43 or circuit attorney directing the treasurer to issue checks thereon, only for purposes related to that
44 previously authorized in this section. Any revenues that are not required for the purposes of this
45 section may be placed in the general revenue fund of the county or city not within a county.
46 Notwithstanding any law to the contrary, in addition to the administrative handling cost, the
47 prosecuting attorney or circuit attorney shall collect an additional cost of five dollars per check
48 for deposit to the Missouri office of prosecution services fund established in subsection 2 of
49 section 56.765, RSMo. All moneys collected pursuant to this section which are payable to the
50 Missouri office of prosecution services fund shall be transmitted at least monthly by the county
51 treasurer to the director of revenue who shall deposit the amount collected pursuant to the credit
52 of the Missouri office of prosecution services fund under the procedure established pursuant to
53 subsection 2 of section 56.765, RSMo.

54 (2) The moneys deposited in the fund may be used by the prosecuting or circuit attorney
55 for office supplies, postage, books, training, office equipment, capital outlay, expenses of trial
56 and witness preparation, additional employees for the staff of the prosecuting or circuit attorney,

57 employees' salaries, and for other lawful expenses incurred by the circuit or prosecuting attorney
58 in operation of that office.

59 (3) This fund may be audited by the state auditor's office or the appropriate auditing
60 agency.

61 (4) If the moneys collected and deposited into this fund are not totally expended
62 annually, then the unexpended balance shall remain in said fund and the balance shall be kept
63 in said fund to accumulate from year to year.

64 6. Notwithstanding any other provision of law to the contrary:

65 (1) In addition to the administrative handling costs provided for in subsection 5 of this
66 section, the prosecuting attorney or circuit attorney may collect from the issuer, in addition to the
67 face amount of the check, a reasonable service charge, which along with the face amount of the
68 check, shall be turned over to the party to whom the bad check was issued;

69 (2) If a check that is dishonored or returned unpaid by a financial institution is not
70 referred to the prosecuting attorney or circuit attorney for any action pursuant to the provisions
71 of this section, the party to whom the check was issued, or his or her agent or assignee, or a
72 holder, may collect from the issuer, in addition to the face amount of the check, a reasonable
73 service charge, not to exceed twenty-five dollars, plus an amount equal to the actual charge by
74 the depository institution for the return of each unpaid or dishonored instrument.

75 7. When any financial institution returns a dishonored check to the person who deposited
76 such check, it shall be in substantially the same physical condition as when deposited, or in such
77 condition as to provide the person who deposited the check the information required to identify
78 the person who wrote the check.

571.030. 1. A person commits the crime of unlawful use of weapons if he or she
2 knowingly:

3 (1) Carries concealed upon or about his or her person a knife, a firearm, a blackjack or
4 any other weapon readily capable of lethal use; or

5 (2) Sets a spring gun; or

6 (3) Discharges or shoots a firearm into a dwelling house, a railroad train, boat, aircraft,
7 or motor vehicle as defined in section 302.010, RSMo, or any building or structure used for the
8 assembling of people; or

9 (4) Exhibits, in the presence of one or more persons, any weapon readily capable of
10 lethal use in an angry or threatening manner; or

11 (5) Possesses or discharges a firearm or projectile weapon while intoxicated; or

12 (6) Discharges a firearm within one hundred yards of any occupied schoolhouse,
13 courthouse, or church building; or

14 (7) Discharges or shoots a firearm at a mark, at any object, or at random, on, along or
15 across a public highway or discharges or shoots a firearm into any outbuilding; or

16 (8) Carries a firearm or any other weapon readily capable of lethal use into any church
17 or place where people have assembled for worship, or into any election precinct on any election
18 day, or into any building owned or occupied by any agency of the federal government, state
19 government, or political subdivision thereof; or

20 (9) Discharges or shoots a firearm at or from a motor vehicle, as defined in section
21 301.010, RSMo, discharges or shoots a firearm at any person, or at any other motor vehicle, or
22 at any building or habitable structure, unless the person was lawfully acting in self-defense; or

23 (10) Carries a firearm, whether loaded or unloaded, or any other weapon readily capable
24 of lethal use into any school, onto any school bus, or onto the premises of any function or activity
25 sponsored or sanctioned by school officials or the district school board.

26 2. Subdivisions (1), (3), (4), (6), (7), (8), (9) and (10) of subsection 1 of this section shall
27 not apply to or affect any of the following:

28 (1) All state, county and municipal peace officers who have completed the training
29 required by the police officer standards and training commission pursuant to sections 590.030
30 to 590.050, RSMo, and [possessing] **who possess** the duty and power of arrest for violation of
31 the general criminal laws of the state or for violation of ordinances of counties or municipalities
32 of the state, whether such officers are on or off duty, and whether such officers are within or
33 outside of the law enforcement agency's jurisdiction, or all qualified retired peace officers, as
34 defined in subsection 10 of this section, and who carry the identification defined in subsection
35 11 of this section, or any person summoned by such officers to assist in making arrests or
36 preserving the peace while actually engaged in assisting such officer;

37 (2) Wardens, superintendents and keepers of prisons, penitentiaries, jails and other
38 institutions for the detention of persons accused or convicted of crime;

39 (3) Members of the armed forces or national guard while performing their official duty;

40 (4) Those persons vested by article V, section 1 of the Constitution of Missouri with the
41 judicial power of the state and those persons vested by Article III of the Constitution of the
42 United States with the judicial power of the United States, the members of the federal judiciary;

43 (5) Any person whose bona fide duty is to execute process, civil or criminal;

44 (6) Any federal probation officer or federal flight deck officer as defined under the
45 federal flight deck officer program, 49 U.S.C. Section 44921;

46 (7) Any state probation or parole officer, including supervisors and members of the
47 board of probation and parole;

48 (8) Any corporate security advisor meeting the definition and fulfilling the requirements
49 of the regulations established by the board of police commissioners under section 84.340, RSMo;
50 and

51 (9) Any coroner, deputy coroner, medical examiner, or assistant medical examiner;

52 **(10) Any elected prosecutor, or assistant prosecutor with written authorization**
53 **from the elected prosecuting attorney.**

54 3. Subdivisions (1), (5), (8), and (10) of subsection 1 of this section do not apply when
55 the actor is transporting such weapons in a nonfunctioning state or in an unloaded state when
56 ammunition is not readily accessible or when such weapons are not readily accessible.
57 Subdivision (1) of subsection 1 of this section does not apply to any person twenty-one years of
58 age or older transporting a concealable firearm in the passenger compartment of a motor vehicle,
59 so long as such concealable firearm is otherwise lawfully possessed, nor when the actor is also
60 in possession of an exposed firearm or projectile weapon for the lawful pursuit of game, or is in
61 his or her dwelling unit or upon premises over which the actor has possession, authority or
62 control, or is traveling in a continuous journey peaceably through this state. Subdivision (10)
63 of subsection 1 of this section does not apply if the firearm is otherwise lawfully possessed by
64 a person while traversing school premises for the purposes of transporting a student to or from
65 school, or possessed by an adult for the purposes of facilitation of a school-sanctioned
66 firearm-related event.

67 4. Subdivisions (1), (8), and (10) of subsection 1 of this section shall not apply to any
68 person who has a valid concealed carry endorsement issued pursuant to sections 571.101 to
69 571.121 or a valid permit or endorsement to carry concealed firearms issued by another state or
70 political subdivision of another state.

71 5. Subdivisions (3), (4), (5), (6), (7), (8), (9), and (10) of subsection 1 of this section shall
72 not apply to persons who are engaged in a lawful act of defense pursuant to section 563.031,
73 RSMo.

74 6. Nothing in this section shall make it unlawful for a student to actually participate in
75 school-sanctioned gun safety courses, student military or ROTC courses, or other
76 school-sponsored firearm-related events, provided the student does not carry a firearm or other
77 weapon readily capable of lethal use into any school, onto any school bus, or onto the premises
78 of any other function or activity sponsored or sanctioned by school officials or the district school
79 board.

80 7. Unlawful use of weapons is a class D felony unless committed pursuant to subdivision
81 (6), (7), or (8) of subsection 1 of this section, in which cases it is a class B misdemeanor, or
82 subdivision (5) or (10) of subsection 1 of this section, in which case it is a class A misdemeanor
83 if the firearm is unloaded and a class D felony if the firearm is loaded, or subdivision (9) of

84 subsection 1 of this section, in which case it is a class B felony, except that if the violation of
85 subdivision (9) of subsection 1 of this section results in injury or death to another person, it is
86 a class A felony.

87 8. Violations of subdivision (9) of subsection 1 of this section shall be punished as
88 follows:

89 (1) For the first violation a person shall be sentenced to the maximum authorized term
90 of imprisonment for a class B felony;

91 (2) For any violation by a prior offender as defined in section 558.016, RSMo, a person
92 shall be sentenced to the maximum authorized term of imprisonment for a class B felony without
93 the possibility of parole, probation or conditional release for a term of ten years;

94 (3) For any violation by a persistent offender as defined in section 558.016, RSMo, a
95 person shall be sentenced to the maximum authorized term of imprisonment for a class B felony
96 without the possibility of parole, probation, or conditional release;

97 (4) For any violation which results in injury or death to another person, a person shall
98 be sentenced to an authorized disposition for a class A felony.

99 9. Any person knowingly aiding or abetting any other person in the violation of
100 subdivision (9) of subsection 1 of this section shall be subject to the same penalty as that
101 prescribed by this section for violations by other persons.

102 10. As used in this section "qualified retired peace officer" means an individual who:

103 (1) Retired in good standing from service with a public agency as a peace officer, other
104 than for reasons of mental instability;

105 (2) Before such retirement, was authorized by law to engage in or supervise the
106 prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any
107 violation of law, and had statutory powers of arrest;

108 (3) Before such retirement, was regularly employed as a peace officer for an aggregate
109 of fifteen years or more, or retired from service with such agency, after completing any
110 applicable probationary period of such service, due to a service-connected disability, as
111 determined by such agency;

112 (4) Has a nonforfeitable right to benefits under the retirement plan of the agency if such
113 a plan is available;

114 (5) During the most recent twelve-month period, has met, at the expense of the
115 individual, the standards for training and qualification for active peace officers to carry firearms;

116 (6) Is not under the influence of alcohol or another intoxicating or hallucinatory drug or
117 substance; and

118 (7) Is not prohibited by federal law from receiving a firearm.

119 11. The identification required by subdivision (1) of subsection 2 of this section is:

120 (1) A photographic identification issued by the agency from which the individual retired
121 from service as a peace officer that indicates that the individual has, not less recently than one
122 year before the date the individual is carrying the concealed firearm, been tested or otherwise
123 found by the agency to meet the standards established by the agency for training and qualification
124 for active peace officers to carry a firearm of the same type as the concealed firearm; or

125 (2) A photographic identification issued by the agency from which the individual retired
126 from service as a peace officer; and

127 (3) A certification issued by the state in which the individual resides that indicates that
128 the individual has, not less recently than one year before the date the individual is carrying the
129 concealed firearm, been tested or otherwise found by the state to meet the standards established
130 by the state for training and qualification for active peace officers to carry a firearm of the same
131 type as the concealed firearm.

575.060. 1. A person commits the crime of making a false declaration if, with the
2 purpose to mislead a public servant in the performance of his **or her** duty, [he] **such person**:

3 (1) Submits any written false statement, which he **or she** does not believe to be true

4 (a) In an application for any pecuniary benefit or other consideration; or

5 (b) On a form bearing notice, authorized by law, that false statements made therein are
6 punishable; or

7 (2) Submits or invites reliance on:

8 (a) Any writing which he **or she** knows to be forged, altered or otherwise lacking in
9 authenticity; or

10 (b) Any sample, specimen, map, boundary mark, or other object which he **or she** knows
11 to be false; **or**

12 **(3) Provides any verbal false statement regarding their identity, which he or she**
13 **believes or knows not to be true.**

14 2. The falsity of the statement or the item under subsection 1 of this section must be as
15 to a fact which is material to the purposes for which the statement is made or the item submitted;
16 and the provisions of subsections 2 and 3 of section 575.040 shall apply to prosecutions under
17 subsection 1 of this section.

18 3. It is a defense to a prosecution under subsection 1 of this section that the actor
19 retracted the false statement or item but this defense shall not apply if the retraction was made
20 after:

21 (1) The falsity of the statement or item was exposed; or

22 (2) The public servant took substantial action in reliance on the statement or item.

23 4. The defendant shall have the burden of injecting the issue of retraction under
24 subsection 3 of this section.

25 5. For the purpose of this section, "written" shall include filings submitted in an
26 electronic or other format or medium approved or prescribed by the secretary of state.

27 6. Making a false declaration is a class B misdemeanor.

**650.470. 1. There is hereby created in the state treasury the "Reverend Nathaniel
2 Cole Memorial Pursuit Reduction Grant", which shall consist of all moneys duly
3 authorized and appropriated by the general assembly, all moneys received from federal
4 funds, gifts, bequests, donations, and any other moneys so designated, and all interest
5 earned on and income generated from moneys in the fund. The state treasurer shall be the
6 custodian of the fund and shall approve disbursements from the fund in accordance with
7 sections 30.170 and 30.180. Moneys in the fund shall be used solely to provide grants in the
8 amount of a fifty percent match to urban police departments which purchase real-time
9 tagging and tracking pursuit management systems.**

10 **2. Notwithstanding the provisions of section 33.080, to the contrary, any moneys
11 remaining in the fund at the end of the biennium shall not revert to the credit of the
12 general revenue fund.**

13 **3. The state treasurer shall invest moneys in the fund in the same manner as other
14 funds are invested.**

15 **4. Only urban police departments which have a pursuit policy in place that is
16 consistent with the state laws governing police pursuits shall be eligible for such grants.
17 The director of the department of public safety shall determine an applicant's eligibility
18 according to the requirements of this subsection and shall disqualify from consideration
19 any urban police department that is not in compliance with state laws governing police
20 pursuit.**

21 **5. Applications for matching grants shall be filed with the department of public
22 safety on forms prescribed and furnished by the director of the department of public
23 safety. The applications shall include the number of pursuits engaged in by the applicant
24 department per year for each of the five years preceding the application.**

25 **6. The director shall approve all applications which are not disqualified under the
26 provisions of subsection 4 of this section. If funding is not sufficient to award grants to all
27 eligible applicants who were not disqualified by the director of the department of public
28 safety then the director shall determine which applicants shall be awarded grants on the
29 basis of need. Need shall be determined by the average number of pursuits engaged in by
30 a department over the five years preceding application with grants being awarded first to
31 those applicants with the highest average number of pursuits per year. The director shall
32 continue to award grants based on need until funds dip below the dollar amount needed
33 to provide a fifty percent match to the next applicant.**

34 **7. The director of the department of public safety shall administer the provisions**
35 **of this section and may adopt all rules and regulations necessary to administer the**
36 **provisions of this section. Any rule or portion of a rule, as that term is defined in section**
37 **536.010, that is created under the authority delegated in this section shall become effective**
38 **only if it complies with and is subject to all of the provisions of chapter 536 and, if**
39 **applicable, section 536.028. The provisions of this section are nonseverable and if any of**
40 **the powers vested with the general assembly under chapter 536 to review, to delay the**
41 **effective date, or to disapprove and annul a rule are subsequently held unconstitutional,**
42 **then the grant of rulemaking authority and any rule proposed or adopted after August 28,**
43 **2010, shall be invalid and void.**

44 **8. As used in this section the following terms shall mean:**

45 **(1) "Real-time tagging and tracking pursuit management system", any system**
46 **which deploys a projectile that attaches to a fleeing vehicle during police pursuit and can**
47 **be monitored in real-time using GPS technology;**

48 **(2) "Urban police department", any police department, sheriffs' department, or**
49 **law enforcement agency which is located in a metropolitan area in this state with a**
50 **population of at least four hundred thousand inhabitants.**

Section B. Because immediate action is necessary to ensure the continued operation of
2 the DNA profiling system which dramatically contributes to the safety of citizens of this state
3 and others and to protect the public by ensuring that the criminal justice system is conducted in
4 an efficient and timely manner the repeal and reenactment of sections 488.5050 and 559.036 of
5 section A of this act is deemed necessary for the immediate preservation of the public health,
6 welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of
7 the constitution, and the repeal and reenactment of sections 488.5050 and 559.036 of section A
8 of this act shall be in full force and effect upon its passage and approval.

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