

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1448
97TH GENERAL ASSEMBLY

5256H.03C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 56.110, 478.240, 478.610, 550.040, 550.060, and 650.120, RSMo, and to enact in lieu thereof four new sections relating to judicial procedures.

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

Section A. Sections 56.110, 478.240, 478.610, 550.040, 550.060, and 650.120, RSMo,
2 are repealed and four new sections enacted in lieu thereof, to be known as sections 56.110,
3 478.240, 478.610, and 650.120, to read as follows:

56.110. If the prosecuting attorney and assistant prosecuting attorney be interested or
2 shall have been employed as counsel in any case where such employment is inconsistent with
3 the duties of his **or her** office, or shall be related to the defendant in any criminal prosecution,
4 either by blood or by marriage, the court having criminal jurisdiction may appoint some other
5 attorney to prosecute or defend the cause. **Such special prosecutor shall not be otherwise**
6 **employed by a party other than the state of Missouri in any criminal case or proceeding**
7 **in that circuit for the duration of that appointment and shall be considered an appointed**
8 **prosecutor for purposes of section 56.360.**

478.240. 1. The presiding judge of each circuit which is provided by subsection 3 of
2 section 15 of article V of the constitution shall be selected for a two-year term. The circuit and
3 associate circuit judges in each circuit shall select by secret ballot a circuit judge from their
4 number to serve as presiding judge. Selection and removal procedures, not inconsistent with the
5 rules of the supreme court, may be provided by local court rule. If a presiding judge is
6 disqualified from acting as a judicial officer pursuant to the constitution, article V, section 24,
7 the circuit judges and associate circuit judges of the circuit shall select a circuit judge as
8 presiding judge. If the circuit does not have an eligible judge to be elected presiding judge, then

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.

9 the chief justice of the supreme court may designate an acting presiding judge until a successor
10 is chosen or until the disability of the presiding judge terminates.

11 2. Subject to the authority of the supreme court and the chief justice under article V of
12 the constitution, the presiding judge of the circuit shall have general administrative authority over
13 all judicial personnel and court officials in the circuit, including the authority to assign any
14 judicial or court personnel anywhere in the circuit, and shall have the authority to assign judges
15 to hear such cases or classes of cases as the presiding judge may designate, and to assign judges
16 to divisions. Such assignment authority shall include the authority to authorize particular
17 associate circuit judges to hear and determine cases or classes of cases. By this subsection the
18 presiding judge shall not, however, be authorized to make the following assignments:

19 (1) Assignment of a municipal judge to hear any case other than to initially hear a
20 municipal ordinance violation case of the municipality which makes provision for such
21 municipal judge, except that the presiding judge of a circuit may assign a municipal judge of a
22 municipality within the circuit to hear and determine municipal ordinance violations in a court
23 of another municipality within the circuit if the municipality to which the judge is especially
24 assigned by the presiding judge has made provision for the compensation of such judge;

25 (2) Assignment of a judge to hear the trial of a felony case when he **or she** has previously
26 conducted the preliminary hearing in that case, **unless the defendant has signed a written**
27 **waiver permitting the same judge to hear both the preliminary hearing and the trial;**

28 (3) Assignment of a case to a judge contrary to provisions of supreme court rules or local
29 circuit court rules; and

30 (4) Assignment of a case or class of cases not within the class of cases specified in
31 section 472.020, to a circuit judge who is also judge of the probate division and who was on
32 January 1, 1979, a probate judge shall only be with the consent of such judge of the probate
33 division.

34 3. If any circuit judge or associate circuit judge shall proceed to hear and determine any
35 case or class of cases which has not been assigned to him **or her** by the presiding judge pursuant
36 to subsection 1 or 2 of this section, or to which he **or she** had not been transferred by the chief
37 justice of the supreme court, or in the event the purported assignment to him **or her** shall be
38 determined to be defective or deficient in any manner, any order or judgment he **or she** may have
39 entered may be set aside, as otherwise provided by rule or by law, and the judge may be subject
40 to discipline under article V, section 24 of the Missouri Constitution, but he **or she** shall not be
41 deemed to have acted other than as a judicial officer because of any such absence, defect or
42 deficiency of assignment under this section, or transfer by the chief justice.

478.610. 1. There shall be three circuit judges in the thirteenth judicial circuit consisting
2 of the counties of Boone and Callaway. These judges shall sit in divisions numbered one, two

3 and three. Beginning on January 1, 2007, there shall be four circuit judges in the thirteenth
4 judicial circuit and these judges shall sit in divisions numbered one, two, three, and four.

5 2. The circuit judge in division two shall be elected in 1980. The circuit judges in
6 divisions one and three shall be elected in 1982. The circuit judge in division four shall be
7 elected in 2006 for a two-year term and thereafter in 2008 for a full six-year term.

8 3. [The authority for a majority of judges of the thirteenth judicial circuit to appoint or
9 retain a commissioner pursuant to section 478.003 shall expire August 28, 2001. As of such
10 date,] **Beginning August 28, 2001**, there shall be one **more** additional associate circuit judge
11 position in Boone County than is provided pursuant to section 478.320.

650.120. 1. There is hereby created in the state treasury the "Cyber Crime Investigation
2 Fund". The treasurer shall be custodian of the fund and may approve disbursements from the
3 fund in accordance with sections 30.170 and 30.180. [Beginning with the 2010 fiscal year and
4 in each subsequent fiscal year, the general assembly shall appropriate three million dollars to the
5 cyber crime investigation fund.] The department of public safety shall be the administrator of
6 the fund. Moneys in the fund shall be used solely for the administration of the grant program
7 established under this section. Notwithstanding the provisions of section 33.080 to the contrary,
8 any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the
9 general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as
10 other funds are invested. Any interest and moneys earned on such investments shall be credited
11 to the fund.

12 2. The department of public safety shall create a program to distribute grants to
13 multijurisdictional Internet cyber crime law enforcement task forces, multijurisdictional
14 enforcement groups, as defined in section 195.503, that are investigating Internet sex crimes
15 against children, and other law enforcement agencies. The program shall be funded by the cyber
16 crime investigation fund created under subsection 1 of this section. Not more than three percent
17 of the money in the fund may be used by the department to pay the administrative costs of the
18 grant program. The grants shall be awarded and used to pay the salaries of detectives, **assistant**
19 **prosecuting and circuit attorneys**, and computer forensic personnel whose focus is
20 investigating Internet sex crimes against children, including but not limited to enticement of a
21 child, possession or promotion of child pornography, provide funding for the training of law
22 enforcement personnel and prosecuting and circuit attorneys as well as their assistant prosecuting
23 and circuit attorneys, and purchase necessary equipment, supplies, and services. The funding for
24 such training may be used to cover the travel expenses of those persons participating.

25 3. A panel is hereby established in the department of public safety to award grants under
26 this program and shall be comprised of the following members:

27 (1) The director of the department of public safety, or his or her designee;

28 (2) Two members [shall be] appointed by the director of the department of public safety
29 from a list of six nominees submitted by the Missouri Police Chiefs Association;

30 (3) Two members [shall be] appointed by the director of the department of public safety
31 from a list of six nominees submitted by the Missouri Sheriffs' Association;

32 (4) Two members of the state highway patrol [shall be] appointed by the director of the
33 department of public safety from a list of six nominees submitted by the Missouri State Troopers
34 Association;

35 (5) One member of the house of representatives [who shall be] appointed by the speaker
36 of the house of representatives; [and]

37 (6) One member of the senate [who shall be] appointed by the president pro tem. The
38 panel members who are appointed under subdivisions (2), (3), and (4) of this subsection shall
39 serve a four-year term ending four years from the date of expiration of the term for which his or
40 her predecessor was appointed. However, a person appointed to fill a vacancy prior to the
41 expiration of such a term shall be appointed for the remainder of the term. Such members shall
42 hold office for the term of his or her appointment and until a successor is appointed. The
43 members of the panel shall receive no additional compensation but shall be eligible for
44 reimbursement for mileage directly related to the performance of panel duties; **and**

45 **(7) The executive director of the Missouri office of prosecution services, or his or**
46 **her designee.**

47 4. Local matching amounts, which may include new or existing funds or in-kind
48 resources including but not limited to equipment or personnel, are required for
49 multijurisdictional Internet cyber crime law enforcement task forces and other law enforcement
50 agencies to receive grants awarded by the panel. Such amounts shall be determined by the state
51 appropriations process or by the panel.

52 5. When awarding grants, priority should be given to newly hired detectives and
53 computer forensic personnel.

54 6. The panel shall establish minimum training standards for detectives and computer
55 forensic personnel participating in the grant program established in subsection 2 of this section.

56 7. Multijurisdictional Internet cyber crime law enforcement task forces and other law
57 enforcement agencies participating in the grant program established in subsection 2 of this
58 section shall share information and cooperate with the highway patrol and with existing Internet
59 crimes against children task force programs.

60 8. The panel may make recommendations to the general assembly regarding the need for
61 additional resources or appropriations.

62 9. The power of arrest of any peace officer who is duly authorized as a member of a
63 multijurisdictional Internet cyber crime law enforcement task force shall only be exercised during

64 the time such peace officer is an active member of such task force and only within the scope of
65 the investigation on which the task force is working. Notwithstanding other provisions of law
66 to the contrary, such task force officer shall have the power of arrest, as limited in this
67 subsection, anywhere in the state and shall provide prior notification to the chief of police of a
68 municipality or the sheriff of the county in which the arrest is to take place. If exigent
69 circumstances exist, such arrest may be made and notification shall be made to the chief of police
70 or sheriff as appropriate and as soon as practical. The chief of police or sheriff may elect to work
71 with the multijurisdictional Internet cyber crime law enforcement task force at his or her option
72 when such task force is operating within the jurisdiction of such chief of police or sheriff.

73 10. [Under section 23.253 of the Missouri sunset act:

74 (1) The provisions of the new program authorized under this section shall sunset
75 automatically six years after June 5, 2006, unless reauthorized by an act of the general assembly;
76 and

77 (2) If such program is reauthorized, the program authorized under this section shall
78 sunset automatically twelve years after the effective date of the reauthorization of this section;
79 and

80 (3) This section shall terminate on September first of the calendar year immediately
81 following the calendar year in which the program authorized under this section is sunset] **This**
82 **section shall expire on August 28, 2024.**

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2 [550.040. In all capital cases, and those in which imprisonment in the
3 penitentiary is the sole punishment for the offense, if the defendant is acquitted,
4 the costs shall be paid by the state; and in all other trials on indictments or
5 information, if the defendant is acquitted, the costs shall be paid by the county in
6 which the indictment was found or information filed.]

2 [550.060. In all cases where any person shall be committed or recognized
3 to answer for a felony, and no indictment shall be found against such person, the
4 prosecutor, or person on whose oath the prosecution was commenced, shall be
5 liable for all the costs incurred in that behalf; and the court shall render judgment
6 against such prosecutor for the same, and in no such case shall the state or county
pay such costs.]

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