

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 735
98TH GENERAL ASSEMBLY

4367H.02C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 477.650, 600.042, 600.090, and 600.101, RSMo, and section 476.055 as enacted by house bill no. 1245 merged with house bill no. 1371, ninety-seventh general assembly, second regular session, and to enact in lieu thereof five new sections relating to judicial proceedings, with penalty provisions.

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

Section A. Sections 477.650, 600.042, 600.090, and 600.101, RSMo, and section 476.055 as enacted by house bill no. 1245 merged with house bill no. 1371, ninety-seventh general assembly, second regular session, are repealed and five new sections enacted in lieu thereof, to be known as sections 476.055, 477.650, 600.042, 600.090, and 600.101, to read as follows:

476.055. 1. There is hereby established in the state treasury the "Statewide Court Automation Fund". All moneys collected pursuant to section 488.027, as well as gifts, contributions, devises, bequests, and grants received relating to automation of judicial record keeping, and moneys received by the judicial system for the dissemination of information and sales of publications developed relating to automation of judicial record keeping, shall be credited to the fund. Moneys credited to this fund may only be used for the purposes set forth in this section and as appropriated by the general assembly. Any unexpended balance remaining in the statewide court automation fund at the end of each biennium shall not be subject to the provisions of section 33.080 requiring the transfer of such unexpended balance to general revenue; except that, any unexpended balance remaining in the fund on September 1, **[2018]** **2023**, shall be transferred to general revenue.

2. The statewide court automation fund shall be administered by a court automation committee consisting of the following: the chief justice of the supreme court, a judge from the

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.

14 court of appeals, four circuit judges, four associate circuit judges, four employees of the circuit
15 court, the commissioner of administration, two members of the house of representatives
16 appointed by the speaker of the house, two members of the senate appointed by the president pro
17 tem of the senate, **the executive director of the Missouri office of prosecution services, the**
18 **director of the state public defender system**, and two members of the Missouri Bar. The judge
19 members and employee members shall be appointed by the chief justice. The commissioner of
20 administration shall serve ex officio. The members of the Missouri Bar shall be appointed by
21 the board of governors of the Missouri Bar. Any member of the committee may designate
22 another person to serve on the committee in place of the committee member.

23 3. The committee shall develop and implement a plan for a statewide court automation
24 system. The committee shall have the authority to hire consultants, review systems in other
25 jurisdictions and purchase goods and services to administer the provisions of this section. The
26 committee may implement one or more pilot projects in the state for the purposes of determining
27 the feasibility of developing and implementing such plan. The members of the committee shall
28 be reimbursed from the court automation fund for their actual expenses in performing their
29 official duties on the committee.

30 4. Any purchase of computer software or computer hardware that exceeds five thousand
31 dollars shall be made pursuant to the requirements of the office of administration for lowest and
32 best bid. Such bids shall be subject to acceptance by the office of administration. The court
33 automation committee shall determine the specifications for such bids.

34 5. The court automation committee shall not require any circuit court to change any
35 operating system in such court, unless the committee provides all necessary personnel, funds and
36 equipment necessary to effectuate the required changes. No judicial circuit or county may be
37 reimbursed for any costs incurred pursuant to this subsection unless such judicial circuit or
38 county has the approval of the court automation committee prior to incurring the specific cost.

39 6. Any court automation system, including any pilot project, shall be implemented,
40 operated and maintained in accordance with strict standards for the security and privacy of
41 confidential judicial records. Any person who knowingly releases information from a
42 confidential judicial record is guilty of a class B misdemeanor. Any person who, knowing that
43 a judicial record is confidential, uses information from such confidential record for financial gain
44 is guilty of a class E felony.

45 7. On the first day of February, May, August and November of each year, the court
46 automation committee shall file a report on the progress of the statewide automation system
47 with:

- 48 (1) The chair of the house budget committee;
49 (2) The chair of the senate appropriations committee;

50 (3) The chair of the house judiciary committee; and

51 (4) The chair of the senate judiciary committee.

52 8. Section 488.027 shall expire on September 1, [2018] **2023**. The court automation
53 committee established pursuant to this section may continue to function until completion of its
54 duties prescribed by this section, but shall complete its duties prior to September 1, [2020] **2025**.

55 9. This section shall expire on September 1, [2020] **2025**.

477.650. 1. There is hereby created in the state treasury the "Basic Civil Legal Services
2 Fund", to be administered by, or under the direction of, the Missouri supreme court. All moneys
3 collected under section 488.031 shall be credited to the fund. In addition to the court filing
4 surcharges, funds from other public or private sources also may be deposited into the fund and
5 all earnings of the fund shall be credited to the fund. The purpose of this section is to increase
6 the funding available for basic civil legal services to eligible low-income persons as such persons
7 are defined by the Federal Legal Services Corporation's Income Eligibility Guidelines.

8 2. Funds in the basic civil legal services fund shall be allocated annually and expended
9 to provide legal representation to eligible low-income persons in the state in civil matters.
10 Moneys, funds, or payments paid to the credit of the basic civil legal services fund shall, at least
11 as often as annually, be distributed to the legal services organizations in this state which qualify
12 for Federal Legal Services Corporation funding. The funds so distributed shall be used by legal
13 services organizations in this state solely to provide legal services to eligible low-income persons
14 as such persons are defined by the Federal Legal Services Corporation's Income Eligibility
15 Guidelines. Fund money shall be subject to all restrictions imposed on such legal services
16 organizations by law. Funds shall be allocated to the programs according to the funding formula
17 employed by the Federal Legal Services Corporation for the distribution of funds to this state.
18 Notwithstanding the provisions of section 33.080, any balance remaining in the basic civil legal
19 services fund at the end of any year shall not be transferred to the state's general revenue fund.
20 Moneys in the basic civil legal services fund shall not be used to pay any portion of a refund
21 mandated by Article X, Section 15 of the Missouri Constitution. State legal services programs
22 shall represent individuals to secure lawful state benefits, but shall not sue the state, its agencies,
23 or its officials, with any state funds.

24 3. Contracts for services with state legal services programs shall provide eligible low-
25 income Missouri citizens with equal access to the civil justice system, with a high priority on
26 families and children, domestic violence, the elderly, and qualification for benefits under the
27 Social Security Act. State legal services programs shall abide by all restrictions, requirements,
28 and regulations of the Legal Services Corporation regarding their cases.

29 4. The Missouri supreme court, or a person or organization designated by the court, is
30 the administrator and shall administer the fund in such manner as determined by the Missouri

31 supreme court, including in accordance with any rules and policies adopted by the Missouri
32 supreme court for such purpose. Moneys from the fund shall be used to pay for the collection
33 of the fee and the implementation and administration of the fund.

34 5. Each recipient of funds from the basic civil legal services fund shall maintain
35 appropriate records accounting for the receipt and expenditure of all funds distributed and
36 received pursuant to this section. These records must be maintained for a period of five years
37 from the close of the fiscal year in which such funds are distributed or received or until audited,
38 whichever is sooner. All funds distributed or received pursuant to this section are subject to
39 audit by the Missouri supreme court or the state auditor.

40 6. The Missouri supreme court, or a person or organization designated by the court, shall,
41 by January thirty-first of each year, report to the general assembly on the moneys collected and
42 disbursed pursuant to this section and section 488.031 by judicial circuit.

43 7. The provisions of this section shall expire on December 31, [2018] **2025**.

600.042. 1. The director shall:

2 (1) Direct and supervise the work of the deputy directors and other state public defender
3 office personnel appointed pursuant to this chapter; and he or she and the deputy director or
4 directors may participate in the trial and appeal of criminal actions at the request of the defender;

5 (2) Submit to the commission, between August fifteenth and September fifteenth of each
6 year, a report which shall include all pertinent data on the operation of the state public defender
7 system, the costs, projected needs, and recommendations for statutory changes. Prior to October
8 fifteenth of each year, the commission shall submit such report along with such
9 recommendations, comments, conclusions, or other pertinent information it chooses to make to
10 the chief justice, the governor, and the general assembly. Such reports shall be a public record,
11 shall be maintained in the office of the state public defender, and shall be otherwise distributed
12 as the commission shall direct;

13 (3) With the approval of the commission, establish such divisions, facilities and offices
14 and select such professional, technical and other personnel, including investigators, as he deems
15 reasonably necessary for the efficient operation and discharge of the duties of the state public
16 defender system under this chapter;

17 (4) Administer and coordinate the operations of defender services and be responsible for
18 the overall supervision of all personnel, offices, divisions and facilities of the state public
19 defender system, except that the director shall have no authority to direct or control the legal
20 defense provided by a defender to any person served by the state public defender system;

21 (5) Develop programs and administer activities to achieve the purposes of this chapter;

22 (6) Keep and maintain proper financial records with respect to the provision of all public
23 defender services for use in the calculating of direct and indirect costs of any or all aspects of the
24 operation of the state public defender system;

25 (7) Supervise the training of all public defenders and other personnel and establish such
26 training courses as shall be appropriate;

27 (8) With approval of the commission, promulgate necessary rules, regulations and
28 instructions consistent with this chapter defining the organization of the state public defender
29 system and the responsibilities of division directors, district defenders, deputy district defenders,
30 assistant public defenders and other personnel;

31 (9) With the approval of the commission, apply for and accept on behalf of the public
32 defender system any funds which may be offered or which may become available from
33 government grants, private gifts, donations or bequests or from any other source. Such moneys
34 shall be deposited in the state general revenue fund;

35 (10) Contract for legal services with private attorneys on a case-by-case basis and with
36 assigned counsel as the commission deems necessary considering the needs of the area, for fees
37 approved and established by the commission;

38 (11) With the approval and on behalf of the commission, contract with private attorneys
39 for the collection and enforcement of liens and other judgments owed to the state for services
40 rendered by the state public defender system;

41 (12) Prepare a plan to establish district offices, the boundaries of which shall coincide
42 with existing judicial circuits. Any district office may contain more than one judicial circuit
43 within its boundaries, but in no event shall any district office boundary include any geographic
44 region of a judicial circuit without including the entire judicial circuit. The director shall submit
45 the plan to the chair of the house judiciary committee and the chair of the senate judiciary
46 committee, with fiscal estimates, by December 31, 2014. The plan shall be implemented by
47 December 31, [2018] **2021**.

48 2. No rule or portion of a rule promulgated under the authority of this chapter shall
49 become effective unless it has been promulgated pursuant to the provisions of section 536.024.

50 3. The director and defenders shall, within guidelines as established by the commission
51 and as set forth in subsection 4 of this section, accept requests for legal services from eligible
52 persons entitled to counsel under this chapter or otherwise so entitled under the constitution or
53 laws of the United States or of the state of Missouri and provide such persons with legal services
54 when, in the discretion of the director or the defenders, such provision of legal services is
55 appropriate.

56 4. The director and defenders shall provide legal services to an eligible person:

57 (1) Who is detained or charged with a felony, including appeals from a conviction in
58 such a case;

59 (2) Who is detained or charged with a misdemeanor which will probably result in
60 confinement in the county jail upon conviction, including appeals from a conviction in such a
61 case, unless the prosecuting or circuit attorney has waived a jail sentence;

62 (3) Who is charged with a violation of probation when it has been determined by a judge
63 that the appointment of counsel is necessary to protect the person's due process rights under
64 section 559.036;

65 (4) Who has been taken into custody pursuant to section 632.489, including appeals from
66 a determination that the person is a sexually violent predator and petitions for release,
67 notwithstanding any provisions of law to the contrary;

68 (5) For whom the federal constitution or the state constitution requires the appointment
69 of counsel; and

70 (6) Who is charged in a case in which he or she faces a loss or deprivation of liberty, and
71 in which the federal or the state constitution or any law of this state requires the appointment of
72 counsel; however, the director and the defenders shall not be required to provide legal services
73 to persons charged with violations of county or municipal ordinances, or misdemeanor offenses
74 except as provided in this section.

75 5. The director may:

76 (1) Delegate the legal representation of [any] **an eligible** person to any member of the
77 state bar of Missouri;

78 (2) Designate persons as representatives of the director for the purpose of making
79 indigency determinations and assigning counsel.

600.090. 1. (1) If a person is determined to be eligible for the services provided by the
2 state public defender system and if, at the time such determination is made, he is able to provide
3 a limited cash contribution toward the cost of his representation without imposing a substantial
4 hardship upon himself or his dependents, such contribution shall be required as a condition of
5 his representation by the state public defender system.

6 (2) If at any time, either during or after the disposition of his case, such defendant
7 becomes financially able to meet all or some part of the cost of services rendered to him, he shall
8 be required to reimburse the commission in such amounts as he can reasonably pay, either by a
9 single payment or by installments of reasonable amounts, in accordance with a schedule of
10 charges for public defender services prepared by the commission.

11 (3) No difficulty or failure in the making of such payment shall reduce or in any way
12 affect the rendering of public defender services to such persons.

13 2. (1) The reasonable value of the services rendered to a defendant pursuant to sections
14 600.011 to 600.048 and 600.086 to 600.096 may in all cases be a lien on any and all property to
15 which the defendant shall have or acquire an interest. The public defender shall effectuate such
16 lien whenever the reasonable value of the services rendered to a defendant appears to exceed one
17 hundred fifty dollars and may effectuate such lien where the reasonable value of those services
18 appears to be less than one hundred fifty dollars.

19 (2) To effectuate such a lien, the public defender shall, prior to the final disposition of
20 the case or within ten days thereafter, file a notice of lien setting forth the services rendered to
21 the defendant and a claim for the reasonable value of such services with the clerk of the circuit
22 court. The defendant shall be personally served with a copy of such notice of lien. The court
23 shall rule on whether all or any part of the claim shall be allowed. The portion of the claim
24 approved by the court as the value of defender services which has been provided to the defendant
25 shall be a judgment at law. The public defender shall not be required to pay filing or recording
26 fees for or relating to such claim.

27 (3) Such judgment shall be enforceable in the name of the state on behalf of the
28 commission by the prosecuting attorney of the circuit in which the judgment was entered.

29 (4) The prosecuting attorney may compromise and make settlement of, or, with the
30 concurrence of the director, forego any claims for services performed for any person pursuant
31 to this chapter whenever the financial circumstances of such person are such that the best
32 interests of the state will be served by such action.

33 3. The commission may contract with private attorneys for the collection and
34 enforcement of liens and other judgments owed to the state for services rendered by the state
35 public defender system.

36 4. The lien created by this section shall be from the time filed in the court by the
37 defender a charge or claim against any assets of the defendant; provided further that the same
38 shall be served upon the person in possession of the assets or shall be recorded in the office of
39 the recorder of deeds in the county in which the person resides or in which the assets are located.

40 5. Funds collected pursuant to this section and section 600.093 shall be credited to the
41 "Legal Defense and Defender Fund" which is hereby created. The moneys credited to the legal
42 defense and defender fund shall be used for the purpose of training public defenders, assistant
43 public defenders, deputy public defenders and other personnel pursuant to subdivision (7) of
44 subsection 1 of section 600.042, and may be used to pay for expert witness fees, the costs of
45 depositions, travel expenses incurred by witnesses in case preparation and trial, expenses
46 incurred for changes of venue and for other lawful expenses as authorized by the public defender
47 commission.

48 6. The state treasurer shall be the custodian of the legal defense and defender fund,
49 moneys in the legal defense and defender fund shall be deposited the same as are other state
50 funds, and any interest accruing to the legal defense and defender fund shall be added to the legal
51 defense and defender fund. The legal defense and defender fund shall be subject to audit, the
52 same as other state funds and accounts, and shall be protected by the general bond given by the
53 state treasurer.

54 7. Upon the request of the director of the office of state public defender, the
55 commissioner of administration shall approve disbursements from the legal defense and defender
56 fund. The legal defense and defender fund shall be funded annually by appropriation, but any
57 unexpended **remaining** balance in the fund at the end of the appropriation period [not in excess
58 of one hundred and fifty thousand dollars] shall be exempt from the provisions of section 33.080,
59 specifically as they relate to the transfer of fund balances to the general revenue, and shall be the
60 amount of the fund at the beginning of the appropriation period next immediately following.

 600.101. Any dispute between any county or city not within a county and the state public
2 defender regarding office space and utility service provided or to be provided pursuant to section
3 600.040 may be submitted to the judicial finance commission established pursuant to section
4 477.600. [The commission on judicial resources established pursuant to section 476.415 shall
5 study and report its recommendations regarding provision of and payment for office space for
6 the state public defender to the chairs of the judiciary committees of the senate and house of
7 representatives, the chair of the senate appropriations committee and budget committee of the
8 house of representatives.]

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