1968S.04C

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE COMMITTEE BILL NO. 1

AN ACT

To repeal sections 105.478, 144.026, 210.845, 302.441, 400.9-501, 452.370, 452.747, 454.500, 456.1-103, 456.4-414, 456.4-420, 456.8-808, 475.024, 478.463, 479.020, 479.170, 479.353, 488.029, 488.2206, 488.2250, 488.5050, 513.430, 513.440, 514.040, 515.575, 515.635, 552.020, 557.035, 565.076, 565.091, 566.010, 575.280, 577.001, 577.010, 577.037, 577.060, 595.045, and 650.055, RSMo, and to enact in lieu thereof sixty-nine 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 105.478, 144.026, 210.845, 302.441, 400.9-501, 452.370, 452.747, 454.500, 456.1-103, 456.4-414, 456.4-420, 456.8-808, 475.024, 478.463, 479.020, 479.170, 479.353, 488.029, 488.2206, 488.2250, 488.5050, 513.430, 513.440, 514.040, 515.575, 515.635, 552.020, 557.035, 565.076, 565.091, 566.010, 575.280, 577.001, 577.010, 577.037, 577.060, 595.045, and 650.055, RSMo, are repealed and sixty-nine new sections enacted in lieu thereof, to be known as sections 29.225, 105.478, 105.713, 144.026, 210.845, 210.1109, 252.069, 302.441, 400.9-501, 452.370, 452.747, 454.500, 456.1-103, 456.4-414, 456.4-420, 456.8-808, 472.400, 472.405, 472.410, 472.415, 472.420, 472.425, 472.430, 472.435, 472.440, 472.445, 472.450, 472.455, 472.460, 472.465, 472.470, 472.475, 472.480, 472.485, 472.490, 475.084, 475.600, 475.602, 475.604, 478.463, 479.020, 479.170, 479.353,

479.354, 488.029, 488.2206, 488.2250, 488.5050, 513.430, 513.440, 514.040, 515.575, 515.635, 552.020, 557.035, 565.076, 565.091, 566.010, 570.095, 575.280, 577.001, 577.010, 577.011, 577.037, 577.060, 589.664, 595.045, 595.219, and 650.055, to read as follows:

29.225. When requested by a prosecuting attorney or circuit attorney or law enforcement agency, the auditor or his or her authorized representatives may audit all or part of any political subdivision or other government entity as part of an investigation of improper government activities, including official misconduct, fraud, misappropriation, mismanagement, waste of resources, or a violation of state or federal law, rule, or regulation.

105.478. Any person guilty of knowingly violating any of the provisions of sections 105.450 to 105.498 shall be punished as follows:

(1) **[**For the first offense, such person is guilty of a**]** The offense is a class B misdemeanor, unless the person has previously been found guilty of knowingly violating any of the provisions of sections 105.450 to 105.498, in which case such person shall be guilty of a class E felony;

(2) **[**For the second and subsequent offenses**]** For any offense involving more than seven hundred fifty dollars in value of any combination of goods or services, such person is guilty of a class E felony.

105.713. 1. By no later than September 30, 2017, and the last day of each calendar month thereafter, the attorney general and the commissioner of administration shall submit a report to

the general assembly detailing all settlements and judgments paid in the previous month from the state legal expense fund, including:

(1) Each payment from such fund, which shall include the case name and number of any settlement payments from such fund;

(2) Each individual deposit to such fund, including:

(a) The transferring state fund's name and section number authorizing the transfer of such funds; and

(b) The case name and case number that correspond to any expenses authorized under section 105.711 for which the deposit is being made; and

(3) The total amount of expenses from such fund's creation for each case included in the report.

2. In cases concerning the legal expenses incurred by the department of transportation, department of conservation, or a public institution that awards baccalaureate degrees, the report required under subsection 1 of this section shall be submitted by the legal counsel provided by the respective entity and by the designated keeper of accounts of the respective entity.

144.026. The director of revenue shall not send notice to any taxpayer under subsection 2 of section 144.021 regarding the decision in IBM Corporation v. Director of Revenue, **[**Case No. 94999**]** 491 S.W.3d 535 (Mo. banc 2016) prior to August 28, **[**2017**]** 2018.

210.845. 1. The provisions of any decree respecting support may be modified only upon a showing of changed circumstances so substantial and continuing as to make the terms unreasonable. In a proceeding for modifications of any child

support award, the court, in determining whether or not a substantial change in circumstances has occurred, shall consider all financial resources of both parties, including the extent to which the reasonable expenses of either party are, or should be, shared by a spouse or other person with whom he cohabits, and the earning capacity of a party who is not employed. If the application of the guidelines and criteria set forth in supreme court rule 88.01 to the financial circumstances of the parties would result in a change of child support from the existing amount by twenty percent or more, then a prima facie showing has been made of a change of circumstances so substantial and continuing as to make the present terms unreasonable.

2. When the party seeking modification has met the burden of proof set forth in subsection 1 of this section, the child support shall be determined in conformity with criteria set forth in supreme court rule 88.01.

3. A responsive pleading shall be filed in response to any motion to modify a child support or custody judgment.

210.1109. During any child protective investigation or assessment that does not result in an out-of-home placement, if the children's division determines that a child is at risk for possible removal and placement in out-of-home care, the division shall provide information to the parent or guardian about community service programs that provide respite care, voluntary guardianship, or other support services for families in crisis in cases where such services may address the needs of the family. The children's division is authorized to exercise its discretion in recommending community service programs provided to a parent

or guardian under this section.

252.069. Any agent of the conservation commission may enforce the provisions of sections 577.070 and 577.080 and arrest violators only upon the water, the banks thereof, or upon public land.

302.441. 1. If a person is required to have an ignition interlock device installed on such person's vehicle, he or she may apply to the court for an employment exemption variance to allow him or her to drive an employer-owned vehicle not equipped with an ignition interlock device for employment purposes only. Such exemption shall not be granted to a person who is self-employed or who wholly or partially owns or controls an entity that owns an employer-owned vehicle.

2. A person who is granted an employment exemption variance under subsection 1 of this section shall not drive, operate, or be in physical control of an employer-owned vehicle used for transporting children under eighteen years of age or vulnerable persons, as defined in section 630.005, or an employer-owned vehicle for personal use.

400.9-501. (a) Except as otherwise provided in subsection (b), if the local law of this state governs perfection of a security interest or agricultural lien, the office in which to file a financing statement to perfect the security interest or agricultural lien is:

(1) The office designated for the filing or recording of a record of a mortgage on the related real property, if:

(A) The collateral is as-extracted collateral or timber to be cut; or

(B) The financing statement is filed as a fixture filing and the collateral is goods that are or are to become fixtures; or

(2) The office of the secretary of state in all other cases, including a case in which the collateral is goods that are or are to become fixtures and the financing statement is not filed as a fixture filing.

(b) The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the secretary of state. The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become fixtures.

[(c) A person shall not knowingly or intentionally file, attempt to file, or record any document related to real property with a recorder of deeds under chapter 59 or a financing statement with the secretary of state under subdivision (2) of subsection (a) or subsection (b) of this section, with the intent that such document or statement be used to harass or defraud any other person or knowingly or intentionally file, attempt to file, or record such a document or statement that is materially false or fraudulent.

(1) A person who violates this subsection shall be guilty of a class E felony.

(2) If a person is convicted of a violation under this subsection, the court may order restitution.

(d) In the alternative to the provisions of sections 428.105 through 428.135, if a person files a false or fraudulent

financing statement with the secretary of state under subdivision (2) of subsection (a) or subsection (b) of this section, a debtor named in that financing statement may file an action against the person that filed the financing statement seeking appropriate equitable relief, actual damages, or punitive damages, including, but not limited to, reasonable attorney fees.**]**

452.370. 1. Except as otherwise provided in subsection 6 of section 452.325, the provisions of any judgment respecting maintenance or support may be modified only upon a showing of changed circumstances so substantial and continuing as to make the terms unreasonable. A responsive pleading shall be filed in response to any motion to modify a child support or maintenance judgment. In a proceeding for modification of any child support or maintenance judgment, the court, in determining whether or not a substantial change in circumstances has occurred, shall consider all financial resources of both parties, including the extent to which the reasonable expenses of either party are, or should be, shared by a spouse or other person with whom he or she cohabits, and the earning capacity of a party who is not employed. If the application of the child support guidelines and criteria set forth in section 452.340 and applicable supreme court rules to the financial circumstances of the parties would result in a change of child support from the existing amount by twenty percent or more, a prima facie showing has been made of a change of circumstances so substantial and continuing as to make the present terms unreasonable, if the existing amount was based upon the presumed amount pursuant to the child support guidelines.

2. When the party seeking modification has met the burden of proof set forth in subsection 1 of this section, the child support shall be determined in conformity with criteria set forth in section 452.340 and applicable supreme court rules.

3. Unless otherwise agreed in writing or expressly provided in the judgment, the obligation to pay future statutory maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.

4. Unless otherwise agreed in writing or expressly provided in the judgment, provisions for the support of a child are terminated by emancipation of the child. The parent entitled to receive child support shall have the duty to notify the parent obligated to pay support of the child's emancipation and failing to do so, the parent entitled to receive child support shall be liable to the parent obligated to pay support for child support paid following emancipation of a minor child, plus interest.

5. If a parent has made an assignment of support rights to the family support division on behalf of the state as a condition of eligibility for benefits pursuant to the Temporary Assistance for Needy Families program and either party initiates a motion to modify the support obligation by reducing it, the state of Missouri shall be named as a party to the proceeding. The state shall be served with a copy of the motion by sending it by certified mail to the director of the family support division.

6. The court shall have continuing personal jurisdiction over both the obligee and the obligor of a court order for child support or maintenance for the purpose of modifying such order. Both obligee and obligor shall notify, in writing, the clerk of

the court in which the support or maintenance order was entered of any change of mailing address. If personal service of the motion cannot be had in this state, the motion to modify and notice of hearing shall be served outside the state as provided by supreme court rule 54.14. The order may be modified only as to support or maintenance installments which accrued subsequent to the date of personal service. For the purpose of 42 U.S.C. Section 666(a)(9)(C), the circuit clerk shall be considered the appropriate agent to receive notice of the motion to modify for the obligee or the obligor, but only in those instances in which personal service could not be had in this state.

7. If a responsive pleading raising the issues of custody or visitation is filed in response to a motion to modify child support filed at the request of the family support division by a prosecuting attorney or circuit attorney or an attorney under contract with the division, such responsive pleading shall be severed upon request.

8. Notwithstanding any provision of this section which requires a showing of substantial and continuing change in circumstances, in a IV-D case filed pursuant to this section by the family support division as provided in section 454.400, the court shall modify a support order in accordance with the guidelines and criteria set forth in supreme court rule 88.01 and any regulations thereunder if the amount in the current order differs from the amount which would be ordered in accordance with such guidelines or regulations.

452.747. 1. Any petition for modification of child custody decrees filed under the provisions of section 452.410 or sections

452.700 to 452.930 shall be verified and, if the original proceeding originated in the state of Missouri, shall be filed in that original case, but service shall be obtained and responsive pleadings **[**may**]** shall be filed as in any original proceeding.

2. Before making a decree under section 452.410 or sections 452.700 to 452.930, the litigants, any parent whose parental rights have not been previously terminated, and any person who has physical custody of the child shall be served in the manner provided by the rules of civil procedure and applicable court rules and **[**may**]** shall within thirty days after the date of service (forty-five days if service by publication) file a verified answer. If any such persons are outside this state, notice and opportunity to be heard shall be given under section 452.740.

454.500. 1. At any time after the entry of an order pursuant to sections 454.470 and 454.475, the obligated parent, the division, or the person or agency having custody of the dependent child may file a motion for modification with the director. Such motion shall be in writing, shall set forth the reasons for modification, and shall state the address of the moving party. The motion shall be served by the moving party in the manner provided for in subsection 5 of section 454.465 upon the obligated parent or the party holding the support rights, as appropriate. In addition, if the support rights are held by the family support division on behalf of the state, a true copy of the motion shall be mailed by the moving party by certified mail to the person having custody of the dependent child at the last known address of that person. The obligated parent or the party

holding the support rights shall file a pleading in response to the motion to modify. A hearing on the motion shall then be provided in the same manner, and determinations shall be based on considerations set out in section 454.475, unless the party served fails to respond within thirty days, in which case the director may enter an order by default. If the child for whom the order applies is no longer in the custody of a person receiving public assistance or receiving support enforcement services from the department, or a division thereof, pursuant to section 454.425, the director may certify the matter for hearing to the circuit court in which the order was filed pursuant to section 454.490 in lieu of holding a hearing pursuant to section 454.475. If the director certifies the matter for hearing to the circuit court, service of the motion to modify shall be had in accordance with the provisions of subsection 5 of section 452.370. If the director does not certify the matter for hearing to the circuit court, service of the motion to modify shall be considered complete upon personal service, or on the date of mailing, if sent by certified mail. For the purpose of 42 U.S.C. Section 666(a)(9)(C), the director shall be considered the appropriate agent to receive the notice of the motion to modify for the obligee or the obligor, but only in those instances in which the matter is not certified to circuit court for hearing, and only when service of the motion is attempted on the obligee or obligor by certified mail.

2. A motion for modification made pursuant to this section shall not stay the director from enforcing and collecting upon the existing order pending the modification proceeding unless so

ordered by the court.

3. Only payments accruing subsequent to the service of the motion for modification upon all named parties to the motion may be modified. Modification may be granted only upon a showing of a change of circumstances so substantial and continuing as to make the terms unreasonable. In a proceeding for modification of any child support award, the director, in determining whether or not a substantial change in circumstances has occurred, shall consider all financial resources of both parties, including the extent to which the reasonable expenses of either party are, or should be, shared by a spouse or other person with whom he or she cohabits, and the earning capacity of a party who is not employed. If the application of the guidelines and criteria set forth in supreme court rule 88.01 to the financial circumstances of the parties would result in a change of child support from the existing amount by twenty percent or more, then a prima facie showing has been made of a change of circumstances so substantial and continuing as to make the present terms unreasonable.

4. If the division has entered an order under section 454.470 or 454.500, and an additional child or children not the subject of the order are born to the parties, the division may, following the filing of a motion to modify, service of process, and opportunity for a hearing pursuant to this section, modify the underlying child support order to include a single child support obligation for all children of the parties in conformity with the criteria set forth in supreme court rule 88.01.

5. The circuit court may, upon such terms as may be just, relieve a parent from an administrative order entered against

that parent because of mistake, inadvertence, surprise, or excusable neglect.

6. No order entered pursuant to section 454.476 shall be modifiable pursuant to this section, except that an order entered pursuant to section 454.476 shall be amended by the director to conform with any modification made by the court that entered the court order upon which the director based his or her order.

7. When the party seeking modifications has met the burden of proof set forth in subsection 3 of this section, then the child support shall be determined in conformity with the criteria set forth in supreme court rule 88.01.

8. The last four digits of the Social Security number of the parents shall be recorded on any order entered pursuant to this section. The full Social Security number of each party and each child shall be retained in the manner required by section 509.520.

456.1-103. In sections 456.1-101 to 456.11-1106:

(1) "Action," with respect to an act of a trustee, includes a failure to act;

(2) "Ascertainable standard" means a standard relating to an individual's health, education, support, or maintenance within the meaning of Section 2041(b)(1)(A) or Section 2541(c)(1) of the Internal Revenue Code;

(3) "Beneficiary" means a person that:

(a) has a present or future beneficial interest in a trust, vested or contingent; or

(b) in a capacity other than that of trustee, holds a power of appointment over trust property;

(4) "Charitable trust" means a trust, or portion of a trust, created for a charitable purpose described in subsection 1 of section 456.4-405;

(5) "Conservator" means a person described in subdivision (3) of section 475.010. This term does not include a conservator ad litem;

(6) "Conservator ad litem" means a person appointed by the court pursuant to the provisions of section 475.097;

(7) "Directed trust", means any trust, including a split interest trust, where the trust instrument authorizes a trust protector to instruct or direct the trustee or that charges a trust protector with any responsibilities regarding the trust or that grants the trust protector one or more powers over the trust;

(8) "Environmental law" means a federal, state, or local law, rule, regulation, or ordinance relating to protection of the environment;

[(8)**]** (9) "Financial institution" means a non-foreign bank, savings and loan or trust company chartered, regulated and supervised by the Missouri division of finance, the office of the comptroller of the currency, the office of thrift supervision, the National Credit Union Administration, or the Missouri division of credit union supervision. The term "non-foreign bank" shall mean a bank that is not a foreign bank within the meaning of subdivision (1) of section 361.005;

[(9)**]** (10) "Guardian" means a person described in subdivision (7) of section 475.010. The term does not include a guardian ad litem;

[(10)**]** (11) "Interested persons" include beneficiaries and any others having a property right in or claim against a trust estate which may be affected by a judicial proceeding. It also includes fiduciaries and other persons representing interested persons. The meaning as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding;

[(11)**]** (12) "Interests of the beneficiaries" means the beneficial interests provided in the terms of the trust;

[(12)**]** (13) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as in effect on January 1, 2005, or as later amended;

[(13)**]** (14) "Jurisdiction," with respect to a geographic area, includes a state or country;

[(14)**]** (15) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity;

[(15)**]** (16) "Permissible distributee" means a beneficiary who is currently eligible to receive distributions of trust income or principal, whether mandatory or discretionary;

[(16)**]** (17) "Power of withdrawal" means a presently exercisable power of a beneficiary to withdraw assets from the trust without the consent of the trustee or any other person;

[(17)**]** (18) "Principal place of administration" of a trust is the trustee's usual place of business where the records pertaining to the trust are kept, or the trustee's residence if

the trustee has no such place of business, unless otherwise designated by the terms of the trust as provided in section 456.1-108. In the case of cotrustees, the principal place of administration is, in the following order of priority:

(a) The usual place of business of the corporate trustee if there is but one corporate cotrustee;

(b) The usual place of business or residence of the trustee who is a professional fiduciary if there is but one such trustee and no corporate cotrustee; or

(c) The usual place of business or residence of any of the cotrustees;

[(18)**]** (19) "Professional fiduciary" means an individual who represents himself or herself to the public as having specialized training, experience or skills in the administration of trusts;

[(19)**]** (20) "Property" means anything that may be the subject of ownership, whether real or personal, legal or equitable, or any interest therein;

[(20)**]** (21) "Qualified beneficiary" means a beneficiary who, on the date the beneficiary's qualification is determined:

(a) is a permissible distributee;

(b) would be a permissible distributee if the interests of the permissible distributees described in paragraph (a) of this subdivision terminated on that date; or

(c) would be a permissible distributee if the trust terminated on that date;

[(21)**]** (22) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other

medium and is retrievable in perceivable form;

[(22)**]** (23) "Revocable," as applied to a trust, means that the settlor has the legal power to revoke the trust without the consent of the trustee or a person holding an adverse interest, regardless of whether the settlor has the mental capacity to do so in fact;

[(23)**]** (24) "Settlor" means a person, including a testator, who creates, or contributes property to, a trust. If more than one person creates or contributes property to a trust, each person is a settlor of the portion of the trust property attributable to that person's contribution except to the extent another person has the power to revoke or withdraw that portion pursuant to the terms of the trust;

[(24)**]** (25) "Sign" means, with present intent to authenticate or adopt a record:

(a) to execute or adopt a tangible symbol; or

(b) to attach to or logically associate with the record an electronic sound, symbol, or process;

[(25)**]** (26) "Spendthrift provision" means a term of a trust which restrains either the voluntary or involuntary transfer or both the voluntary and involuntary transfer of a beneficiary's interest;

[(26)**]** (27) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band recognized by federal law or formally acknowledged by a state;

[(27)**]** (28) "Terms of a trust" means the manifestation of the settlor's intent regarding a trust's provisions as expressed in the trust instrument or as may be established by other evidence that would be admissible in a judicial proceeding;

[(28)**]** (29) "Trust instrument" means an instrument executed by the settlor that contains terms of the trust, including any amendments thereto;

[(29)**]** (30) "Trust protector", means any person, group of persons or entity not serving as a trustee and not the settlor or a beneficiary, designated in a trust instrument to instruct or direct the trustee or charged in the trust instrument with any responsibilities regarding the trust or expressly granted in the trust instrument one or more powers over the trust. The term "trust protector" includes but is not limited to persons or entities identified in the trust instrument as trust advisors, trust directors, distribution advisers, or investment advisers;

(31) "Trustee" includes an original, additional, and successor trustee, and a cotrustee.

456.4-414. 1. After notice to the qualified beneficiaries, the trustee of a trust consisting of trust property having a total value less than **[**one hundred thousand**]** two hundred fifty thousand dollars may terminate the trust if the trustee concludes that the value of the trust property is insufficient to justify the cost of administration.

2. The court may modify or terminate a trust or remove the trustee and appoint a different trustee if it determines that the value of the trust property is insufficient to justify the cost of administration.

3. Upon termination of a trust under this section, the trustee shall distribute the trust property in a manner consistent with the purposes of the trust.

4. This section does not apply to an easement for conservation or preservation.

456.4-420. 1. If a trust instrument containing a no-contest clause is or has become irrevocable, an interested person may file a petition to the court for an interlocutory determination whether a particular motion, petition, or other claim for relief by the interested person would trigger application of the no-contest clause or would otherwise trigger a forfeiture that is enforceable under applicable law and public policy.

2. The petition described in subsection 1 of this section shall be verified under oath. The petition may be filed by an interested person either as a separate judicial proceeding, or brought with other claims for relief in a single judicial proceeding, all in the manner prescribed generally for such proceedings under this chapter. If a petition is joined with other claims for relief, the court shall enter its order or judgment on the petition before proceeding any further with any other claim for relief joined therein. In ruling on such a petition, the court shall consider the text of the clause, the context to the terms of the trust instrument as a whole, and in the context of the verified factual allegations in the petition. No evidence beyond the pleadings and the trust instrument shall be taken except as required to resolve an ambiguity in the no-contest clause.

3. An order or judgment determining a petition described in subsection 1 of this section shall have the effect set forth in subsections 4 and 5 of this section, and shall be subject to appeal as with other final judgments. If the order disposes of fewer than all claims for relief in a judicial proceeding, that order is subject to interlocutory appeal in accordance with the applicable rules for taking such an appeal. If an interlocutory appeal is taken, the court may stay the pending judicial proceeding until final disposition of said appeal on such terms and conditions as the court deems reasonable and proper under the circumstances. A final ruling on the applicability of a no-contest clause shall not preclude any later filing and adjudication of other claims related to the trust.

4. An order or judgment, in whole or in part, on a petition described in subsection 1 of this section shall result in the no-contest clause being enforceable to the extent of the court's ruling, and shall govern application of the no-contest clause to the extent that the interested person then proceeds forward with the claims described therein. In the event such an interlocutory order or judgment is vacated, reversed, or otherwise modified on appeal, no interested person shall be prejudiced by any reliance, through action, inaction, or otherwise, on the order or judgment prior to final disposition of the appeal.

5. An order or judgment shall have effect only as to the specific trust terms and factual basis recited in the petition. If claims are later filed that are materially different than those upon which the order or judgment is based, then to the extent such new claims are raised, the party in whose favor the

order or judgment was entered shall have no protection from enforcement of the no-contest clause otherwise afforded by the order and judgment entered under this section.

6. For purposes of this section, a "no-contest clause" shall mean a provision in a trust instrument purporting to rescind a donative transfer to, or a fiduciary appointment of, any person, or that otherwise effects a forfeiture of some or all of an interested person's beneficial interest in a trust estate as a result of some action taken by the beneficiary. This definition shall not be construed in any way as determining whether a no-contest clause is enforceable under applicable law and public policy in a particular factual situation. As used in this section, the term "no-contest clause" shall also mean an "in terrorem clause".

7. A no-contest clause is not enforceable against an interested person in, but not limited to, the following circumstances:

(1) Filing a motion, petition, or other claim for relief objecting to the jurisdiction or venue of the court over a proceeding concerning a trust, or over any person joined, or attempted to be joined, in such a proceeding;

(2) Filing a motion, petition, or other claim for relief concerning an accounting, report, or notice that has or should have been made by a trustee, provided the interested person otherwise has standing to do so under applicable law, including, but not limited to, section 456.6-603;

(3) Filing a motion, petition, or other claim for relief under chapter 475 concerning the appointment of a guardian or

conservator for the settlor;

(4) Filing a motion, petition, or other claim for relief under chapter 404 concerning the settlor;

(5) Disclosure to any person of information concerning a trust instrument or that is relevant to a proceeding before the court concerning the trust instrument or property of the trust estate, unless such disclosure is otherwise prohibited by law;

(6) Filing a motion, pleading, or other claim for relief seeking approval of a nonjudicial settlement agreement concerning a trust instrument, as set forth in section 456.1-111;

(7) Filing a motion, pleading, or other claim for relief concerning a breach of trust by a trustee including, but not limited to, a claim under section 456.10-1001. For purposes of this subdivision, "breach of trust" means a trustee's violation of the terms of a trust instrument, a violation of the trustee's general fiduciary obligations, or a trustee's violation of a duty that equity imposes on a trustee;

(8) Filing a motion, pleading, or other claim for relief concerning removal of a trustee including, but not limited to, a claim for removal under section 456.7-706;

(9) To the extent a petition under subsection 1 of this section is limited to the procedure and purpose described therein.

8. In any proceeding brought under this section, the court may award costs, expenses, and attorneys' fees to any party, as provided in section 456.10-1004.

456.8-808. 1. While a trust is revocable, the trustee may follow a direction of the settlor that is contrary to the terms

of the trust.

2. A trust instrument may provide for **[**the appointment of a trust protector. For purposes of this section, a "trust protector", whether referred to in the trust instrument by that name or by some other name, is a person, other than the settlor, a trustee, or a beneficiary, who is expressly granted in the trust instrument one or more powers over the trust**]** one or more persons, not then serving as a trustee and not the settlor or a beneficiary, to be given any powers over the trust as expressly granted in the trust instrument. Any such person may be identified and appointed as a trust protector or similar term. Whenever a trust instrument names, appoints, authorizes, or otherwise designates a trust protector, the trust shall be deemed a directed trust.

3. A trust protector appointed in the trust instrument shall have only the powers granted to the trust protector by the express terms of the trust instrument, and a trust protector is only authorized to act within the scope of the authority expressly granted in the trust instrument. Without limiting the authority of the settlor to grant powers to a trust protector, the express powers that may be granted include, but are not limited to, the following:

(1) Remove and appoint a trustee or a trust protector or name a successor trustee or trust protector;

(2) Modify or amend the trust instrument to:

(a) Achieve favorable tax status or respond to changes in the Internal Revenue Code or state law, or the rulings and regulations under such code or law;

(b) Reflect legal changes that affect trust administration;

(c) Correct errors or ambiguities that might otherwise require court construction; or

(d) Correct a drafting error that defeats a grantor's intent;

(3) Increase, decrease, modify, or restrict the interests of the beneficiary or beneficiaries of the trust;

(4) Terminate the trust in favor of the beneficiary or beneficiaries of the trust;

(5) Change the applicable law governing the trust and the trust situs; or

(6) Such other powers as are expressly granted to the trust protector in the trust instrument.

4. Notwithstanding any provision in the trust instrument to the contrary, a trust protector shall have no power to modify a trust to:

(1) Remove a requirement from a trust created to meet the requirements of 42 U.S.C. Section 1396p(d)(4) to pay back a governmental entity for benefits provided to the permissible beneficiary of the trust at the death of that beneficiary; or

(2) Reduce or eliminate an income interest of the income beneficiary of any of the following types of trusts:

(a) A trust for which a marital deduction has been taken for federal tax purposes under Section 2056 or 2523 of the Internal Revenue Code or for state tax purposes under any comparable provision of applicable state law, during the life of the settlor's spouse;

(b) A charitable remainder trust under Section 664 of the

Internal Revenue Code, during the life of the noncharitable beneficiary;

(c) A grantor retained annuity trust under Section 2702 of the Internal Revenue Code, during any period in which the settlor is a beneficiary; or

(d) A trust for which an election as a qualified Sub-Chapter S Trust under Section 1361(d) of the Internal Revenue Code is currently in place.

5. Except to the extent otherwise provided in a trust instrument specifically referring to this subsection, the trust protector shall not exercise a power in a way that would result in a taxable gift for federal gift tax purposes or cause the inclusion of any assets of the trust in the trust protector's gross estate for federal estate tax purposes.

6. Except to the extent otherwise provided in the trust instrument and in subsection 7 of this section, and notwithstanding any provision of sections 456.1-101 to 456.11-1106 to the contrary:

(1) A trust protector shall act in a fiduciary capacity in carrying out the powers granted to the trust protector in the trust instrument, and shall have such duties to the beneficiaries, the settlor, or the trust as set forth in the trust instrument<u>; provided, however, that the trust instrument may provide that the trust protector shall act in a nonfiduciary capacity</u>. A trust protector is not a trustee, and is not liable or accountable as a trustee when performing or declining to perform the express powers given to the trust protector in the trust instrument. A trust protector is not liable for the acts

or omissions of any fiduciary or beneficiary under the trust instrument;

(2) A trust protector is exonerated from any and all liability for the trust protector's acts or omissions, or arising from any exercise or nonexercise of the powers expressly conferred on the trust protector in the trust instrument, unless it is established by a preponderance of the evidence that the acts or omissions of the trust protector were done or omitted in breach of the trust protector's duty, in bad faith or with reckless indifference;

(3) A trust protector is authorized to exercise the express powers granted in the trust instrument at any time and from time to time after the trust protector acquires knowledge of their appointment as trust protector and of the powers granted. The trust protector may take any action, judicial or otherwise, necessary to carry out the duties given to the trust protector in the trust instrument;

(4) A trust protector is entitled to receive, from the assets of the trust for which the trust protector is acting, reasonable compensation, and reimbursement of the reasonable costs and expenses incurred, in determining whether to carry out, and in carrying out, the express powers given to the trust protector in the trust instrument;

(5) A trust protector is entitled to receive, from the assets of the trust for which the trust protector is acting, reimbursement of the reasonable costs and expenses, including attorney's fees, of defending any claim made against the trust protector arising from the acts or omissions of the trust

protector acting in that capacity unless it is established by clear and convincing evidence that the trust protector was acting in bad faith or with reckless indifference; and

(6) The express powers granted in the trust instrument shall not be exercised by the trust protector for the trust protector's own personal benefit.

7. If a trust protector is granted a power in the trust instrument to direct, consent to, or disapprove a trustee's actual or proposed investment decision, distribution decision, or other decision of the trustee required to be performed under applicable trust law in carrying out the duties of the trustee in administering the trust, then only with respect to such power, excluding the powers identified in subsection 3 of this section, the trust protector shall have the same duties and liabilities as if serving as a trustee under the trust instrument unless the trust instrument expressly provides otherwise. In carrying out any written directions given to the trustee by the trust protector concerning actual or proposed investment decisions, the trustee shall not be subject to the provisions of sections 469.900 to 469.913. For purposes of this subsection, "investment decisions" means, with respect to any investment, decisions to retain, purchase, sell, exchange, tender, or otherwise engage in transactions affecting the ownership of investments or rights therein, and, with respect to nonpublicly traded investments, the valuation thereof.

8. Any trustee of a directed trust shall not be accountable under the law or equity for any act or omission of a trust protector and shall stand absolved from liability for executing

the decisions or instructions from a trust protector, or for monitoring the actions or inactions of a trust protector. A trustee shall take reasonable steps to facilitate the activity of a trust protector in a directed trust. A trustee shall carry out the written directions given to the trustee by a trust protector acting within the scope of the powers expressly granted to the trust protector in the trust instrument. Except **[**in cases of bad faith or reckless indifference on the part of the trustee, or**]** as otherwise provided in the trust instrument, the trustee shall not be liable for any loss resulting directly or indirectly from any act taken or omitted as a result of the written direction of the trust protector or the failure of the trust protector to provide consent. Except as otherwise provided in the trust instrument, the trustee shall have no duty to monitor the conduct of the trust protector, provide advice to or consult with the trust protector, or communicate with or warn or apprise any beneficiary concerning instances in which the trustee would or might have exercised the trustee's own discretion in a manner different from the manner directed by the trust protector. Except as otherwise provided in the trust instrument, any actions taken by the trustee at the trust protector's direction shall be deemed to be administrative actions taken by the trustee solely to allow the trustee to carry out the instructions of the trust protector, and shall not be deemed to constitute an act by the trustee to monitor the trust protector or otherwise participate in actions within the scope of the trust protector's authority.

9. Except to the extent otherwise expressly provided in the trust instrument, the trust protector shall be entitled to

receive information regarding the administration of the trust as follows:

(1) Upon the request of the trust protector, unless unreasonable under the circumstances, the trustee shall promptly provide to the trust protector any and all information related to the trust that may relate to the exercise or nonexercise of a power expressly granted to the trust protector in the trust instrument. The trustee has no obligation to provide any information to the trust protector except to the extent a trust protector requests information under this section;

(2) The request of the trust protector for information under this section shall be with respect to a single trust that is sufficiently identified to enable the trustee to locate the records of the trust; and

(3) If the trustee is bound by any confidentiality restrictions with respect to an asset of a trust, a trust protector who requests information under this section about such asset shall agree to be bound by the confidentiality restrictions that bind the trustee before receiving such information from the trustee.

10. A trust protector may resign by giving thirty days' written notice to the trustee and any successor trust protector. A successor trust protector, if any, shall have all the powers expressly granted in the trust instrument to the resigning trust protector unless such powers are expressly modified for the successor trust protector.

11. A trust protector of a trust having its principal place of administration in this state submits personally to the

jurisdiction of the courts of this state during any period that the principal place of administration of the trust is located in this state and the trust protector is serving in such capacity. The trust instrument may also provide that a trust protector is subject to the personal jurisdiction of the courts of this state as a condition of appointment.

472.400. Sections 472.400 to 472.490 shall be known and may be cited as the "Missouri Fiduciary Access to Digital Assets Act".

472.405. As used in sections 472.400 to 472.490, the following terms mean:

(1) "Access", includes view, marshal, manage, copy, distribute, or delete;

(2) "Account", an arrangement under a terms-of-service agreement in which a custodian carries, maintains, processes, receives, or stores a digital asset of the user or provides goods or services to the user;

(3) "Agent", an attorney-in-fact granted authority under a durable or nondurable power of attorney;

(4) "Carries", engages in the transmission of electronic communications;

(5) "Catalogue of electronic communications", information that identifies each person with which a user has had an electronic communication, the time and date of the communication, and the electronic address of the person;

(6) "Conservator", a person appointed by a court to have the care and custody of the estate of a minor or a disabled person. A "limited conservator" is one whose duties or powers

are limited. The term "conservator", as used in sections 472.400 to 472.490, includes limited conservator unless otherwise specified or apparent from the context;

(7) "Content of an electronic communication", information concerning the substance or meaning of the communication which:

(a) Has been sent or received by a user;

(b) Is in electronic storage by a custodian providing an electronic-communication service to the public or is carried or maintained by a custodian providing a remote-computing service to the public; and

(c) Is not readily accessible to the public;

(8) "Court", any court with competent jurisdiction within this state;

(9) "Custodian", a person that carries, maintains, processes, receives, or stores a digital asset of a user;

(10) "Designated recipient", a person chosen by a user using an online tool to administer digital assets of the user;

(11) "Digital asset", an electronic record in which an individual has a right or interest. The term does not include an underlying asset or liability unless the asset or liability is itself an electronic record;

(12) "Electronic", relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

(13) "Electronic communication", has the same meaning as set forth in 18 U.S.C. Section 2510(12), as amended;

(14) "Electronic-communication service", a custodian that provides to a user the ability to send or receive an electronic

communication;

(15) "Fiduciary", an original, additional, or successor personal representative, conservator, agency, or trustee;

(16) "Information", data, text, images, videos, sounds, codes, computer programs, software, databases, or the like;

(17) "Online tool", an electronic service provided by a custodian that allows the user, in an agreement distinct from the terms-of-service agreement between the custodian and user, to provide directions for disclosure or nondisclosure of digital assets to a third person;

(18) "Person", an individual, estate, trust, business or nonprofit entity, public corporation, government or governmental subdivision, agency, instrumentality, or other legal entity;

(19) "Personal representative", executor or administrator, including an administrator with the will annexed, an administrator de bonis non, an administrator pending contest, an administrator during minority or absence, and any other type of administrator of the estate of a decedent whose appointment is permitted, or any person who performs substantially the same function under the law of Missouri, including without limitation an affiant who has filed a small estate affidavit under section 473.097. It does not include an executor de son tort;

(20) "Power of attorney", a record that grants an agent authority to act in the place of a principal;

(21) "Principal", an individual who grants authority to an agent in a power of attorney;

(22) "Protected person", an individual for whom a conservator has been appointed, including a protectee, a disabled

person, and an individual for whom an application for the appointment of a conservator is pending;

(23) "Record", information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(24) "Remote-computing service", a custodian that provides to a user computer processing services or the storage of digital assets by means of an electronic communications system, as defined in 18 U.S.C. Section 2510(14), as amended;

(25) "Terms-of-service agreement", an agreement that controls the relationship between a user and a custodian;

(26) "Trustee", a fiduciary with legal title to property pursuant to an agreement or declaration that creates a beneficial interest in another, including an original, additional, and successor trustee, and a co-trustee;

(27) "User", a person that has an account with a custodian;

(28) "Will", includes a testamentary instrument, a codicil, a testamentary instrument that only appoints an executor, and instrument that revokes or revises a testamentary instrument.

472.410. 1. Sections 472.400 to 472.490 shall apply to:

(1) A fiduciary or agent acting under a will or power of attorney executed before, on, or after the effective date of sections 472.400 to 472.490;

(2) A personal representative acting for a decedent who dies before, on, or after the effective date of sections 472.400 to 472.490;

(3) A conservatorship proceeding commenced before, on, or after the effective date of sections 472.400 to 472.490; and

(4) A trustee acting under a trust created before, on, or after the effective date of sections 472.400 to 472.490.

2. Sections 472.400 to 472.490 shall apply to a custodian if the user resides in this state or resided in this state at the time of the user's death.

3. Sections 472.400 to 472.490 shall not apply to a digital asset of an employer used by an employee in the ordinary course of the employer's business.

472.415. 1. A user may use an online tool to direct the custodian to disclose to a designated recipient or not to disclose some or all of the user's digital assets, including the content of electronic communications. If the online tool allows the user to modify or delete a direction at all times, a direction regarding disclosure using an online tool overrides a contrary direction by the user in a will, trust, power of attorney, or other record.

2. If a user has not used an online tool to give direction under subsection 1 of this section or if the custodian has not provided an online tool, the user may allow or prohibit in a will, trust, power of attorney, or other record, disclosure to a fiduciary of some or all of the user's digital assets, including the content of electronic communications sent or received by the user.

3. A user's direction under subsection 1 or 2 of this section overrides a contrary provision in a terms-of-service agreement that does not require the user to act affirmatively and distinctly from the user's assent to the terms-of-service.

472.420. 1. Sections 472.400 to 472.490 shall not change

or impair a right of a custodian or a user under a terms-of-service agreement to access and use digital assets of the user.

2. Sections 472.400 to 472.490 shall not give a fiduciary or a designated recipient any new or expanded rights other than those held by the user for whom, or for whose estate, the fiduciary or designated recipient acts or represents.

3. A fiduciary's or a designated recipient's access to digital assets may be modified or eliminated by a user, by federal law, or by a terms-of-service agreement if the user has not provided direction under section 472.415.

472.425. 1. When disclosing digital assets of a user under sections 472.400 to 472.490, the custodian may at its sole discretion:

(1) Grant a fiduciary or designated recipient full access to the user's account;

(2) Grant a fiduciary or designated recipient partial access to the user's account sufficient to perform the tasks with which the fiduciary or designated recipient is charged; or

(3) Provide a fiduciary or designated recipient a copy in a record of any digital asset that, on the date the custodian received the request for disclosure, the user could have accessed if the user were alive and had full capacity and access to the account.

2. A custodian may assess a reasonable administrative charge for the cost of disclosing digital assets under sections 472.400 to 472.490.

3. A custodian shall not disclose under sections 472.400 to 472.490 a digital asset deleted by a user.

4. If a user directs or a fiduciary requests a custodian to disclose under sections 472.400 to 472.490 some, but not all, of the user's digital assets, the custodian need not disclose the assets if segregation of the assets would impose an undue burden on the custodian. If the custodian believes the direction or request imposes an undue burden, the custodian or fiduciary may seek an order from the court to disclose:

(1) A subset limited by date of the user's digital assets;

(2) All of the user's digital assets to the fiduciary or designated recipient;

(3) None of the user's digital assets; or

(4) All of the user's digital assets to the court for review in camera.

472.430. If a deceased user consented or a court directs disclosure of the contents of electronic communications of the user, the custodian shall disclose to the personal representative of the estate of the user the content of an electronic communication sent or received by the user if the representative gives the custodian:

(1) A written request for disclosure in physical or electronic form;

(2) A certified copy of the death certificate of the user;

(3) A certified copy of the letters testamentary or letters of administration of the representative or a certified copy of the certificate of clerk in connection with a small estate affidavit or court order;

(4) Unless the user provided direction using an online tool, then in the case of user consent to disclosure, a copy of

the user's will, trust, power of attorney, or other record evidencing the user's consent to disclosure of the content of electronic communications; and

(5) If requested by the custodian for the purpose of identifying the correct account of the user:

(a) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

(b) Evidence linking the account to the user; or

(c) A finding by the court that:

a. The user had a specific account with the custodian, identifiable by the information specified in paragraph (a) of this subdivision;

b. Disclosure of the content of electronic communications of the user would not violate 18 U.S.C. Section 2701 et seq., as amended, 47 U.S.C. Section 222, as amended, or other applicable law;

c. Unless the user provided direction using an online tool, the user consented to disclosure of the content of electronic communications; or

d. Disclosure of the content of electronic communications of the user is reasonably necessary for administration of the estate.

472.435. Unless the user prohibited disclosure of digital assets or the court directs otherwise, a custodian shall disclose to the personal representative of the estate of a deceased user a catalogue of electronic communications sent or received by the user and digital assets, other than the content of electronic

communications, of the user, if the representative gives the custodian:

(1) A written request for disclosure in physical or electronic form;

(2) A certified copy of the death certificate of the user;

(3) A certified copy of the letters testamentary or letters of administration of the representative or a certified copy of certificate of clerk in connection with a small estate affidavit or court order; and

(4) If requested by the custodian for the purpose of identifying the correct account of the correct user:

(a) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

(b) Evidence linking the account to the user;

(c) An affidavit stating that disclosure of the user's digital assets is reasonably necessary for administration of the estate; or

(d) A finding by the court that:

a. The user had a specific account with the custodian, identifiable by the information specified in paragraph (a) of this subdivision; or

b. Disclosure of the user's digital assets is reasonably necessary for administration of the estate.

472.440. To the extent a power of attorney expressly grants an agent authority over the content of electronic communications sent or received by the principal and unless directed otherwise by the principal or the court, a custodian shall disclose to the

agent the content if the agent gives the custodian:

(1) A written request for disclosure in physical or electronic form;

(2) An original or copy of the power of attorney expressly granting the agent authority over the content of electronic communications of the principal;

(3) A certification by the agent, under penalty of perjury, that the power of attorney is in effect; and

(4) If requested by the custodian for the purpose of identifying the correct account of the correct user:

(a) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the principal's account; or

(b) Evidence linking the account to the principal.

472.445. Unless otherwise ordered by the court, directed by the principal, or provided by a power of attorney, a custodian shall disclose to an agent with specific authority over digital assets or general authority to act on behalf of a principal, a catalogue of electronic communications sent or received by the principal and digital assets, other than the content of electronic communications, of the principal if the agent gives the custodian:

(1) A written request for disclosure in physical or electronic form;

(2) An original or a copy of the power of attorney that gives the agent specific authority over digital assets or general authority to act on behalf of the principal;

(3) A certification by the agent, under penalty of perjury,

that the power of attorney is in effect; and

(4) If requested by the custodian for the purpose of identifying the correct account of the correct user:

(a) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the principal's account; or

(b) Evidence linking the account to the principal.

472.450. Unless otherwise ordered by the court or provided in a trust, a custodian shall disclose to a trustee that is an original user of an account any digital asset of the account held in trust, including a catalogue of electronic communications of the trustee and the content of the electronic communications.

472.455. Unless otherwise ordered by the court, directed by the user, or provided in a trust, a custodian shall disclose to a trustee that is not an original user of an account the content of an electronic communication sent or received by an original or successor user and carried, maintained, processed, received, or stored by the custodian in the account of the trust if the trustee gives the custodian:

(1) A written request for disclosure in physical or electronic form;

(2) A certified copy of the trust instrument or a certification of the trust under section 456.10-1013 that includes consent to disclosure of the content of electronic communications to the trustee;

(3) A certification by the trustee, under penalty of perjury, that the trust exists and the trustee is a currently acting trustee of the trust; and

(4) If requested by the custodian for the purpose of identifying the correct account of the correct user:

(a) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the trust's account; or

(b) Evidence linking the account to the trust.

472.460. Unless otherwise ordered by the court, directed by the user, or provided in a trust, a custodian shall disclose, to a trustee that is not an original user of an account, a catalogue of electronic communications sent or received by an original or successor user and stored, carried, or maintained by the custodian in an account of the trust and any digital assets, other than the content of electronic communications, in which the trust has a right or interest if the trustee gives the custodian:

(1) A written request for disclosure in physical or electronic form;

(2) A certified copy of the trust instrument or a certification of the trust under section 456.10-1013;

(3) A certification by the trustee, under penalty of perjury, that the trust exists and the trustee is a currently acting trustee of the trust; and

(4) If requested by the custodian for the purpose of identifying the correct account of the correct user:

(a) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the trust's account; or

(b) Evidence linking the account to the trust.

472.465. 1. After an opportunity for a hearing under

Missouri conservatorship law, the court may grant a conservator access to the digital assets of a protected person.

2. Unless otherwise ordered by the court or directed by the user, a custodian shall disclose to a conservator the catalogue of electronic communications sent or received by a protected person and any digital assets, other than the content of electronic communications, in which the protected person has a right or interest if the conservator gives the custodian:

(1) A written request for disclosure in physical or electronic form;

(2) A certified copy of the court order that gives the conservator authority over the digital assets of the protected person; and

(3) If requested by the custodian for the purpose of identifying the correct account of the correct user:

(a) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the account of the protected person; or

(b) Evidence linking the account to the protected person.

3. A conservator with general authority to manage the assets of a protected person may request a custodian of the digital assets of the protected person to suspend or terminate an account of the protected person for good cause. A request made under this subsection shall be accompanied by a certified copy of the court order giving the conservator authority over the protected person's property.

472.470. 1. The legal duties imposed on a fiduciary charged with managing tangible property apply to the management

of digital assets, including:

(1) The duty of care;

(2) The duty of loyalty; and

(3) The duty of confidentiality.

2. A fiduciary's or designated recipient's authority with respect to a digital asset of a user:

(1) Except as otherwise provided in section 472.415, is subject to the applicable terms-of-service agreement;

(2) Is subject to other applicable law, including copyright law;

(3) In the case of a fiduciary, is limited by the scope of the fiduciary's duties; and

(4) May not be used to impersonate the user.

3. A fiduciary with authority over the property of a decedent, protected person, principal, or settlor has the right to access any digital asset in which the decedent, protected person, principal, or settlor had a right or interest and that is not held by a custodian or subject to a terms-of-service agreement.

4. A fiduciary acting within the scope of the fiduciary's duties is an authorized user of the property of the decedent, protected person, principal, or settlor for the purpose of applicable computer-fraud and unauthorized-computer-access laws, including Missouri law on unauthorized computer access.

5. A fiduciary with authority over the tangible, personal property of a decedent, protected person, principal, or settlor:

(1) Has the right to access the property and any digital asset stored in it; and

(2) Is an authorized user for the purpose of computer-fraud and unauthorized-computer-access laws, including Missouri law on unauthorized computer access.

6. A custodian may disclose information in an account to a fiduciary of the user when the information is required to terminate an account used to access digital assets licensed to the user.

7. A fiduciary of a user may request a custodian to terminate the user's account. A request for termination shall be in writing, in either physical or electronic form, and accompanied by:

(1) If the user is deceased, a certified copy of the death certificate of the user;

(2) A certified copy of the letter of testamentary or letters of administration of the representative or a certified copy of the certificate of clerk in connection with a small estate affidavit or court order, power of attorney, or trust giving the fiduciary authority over the account; and

(3) If requested by the custodian for the purpose of identifying the correct account of the correct user:

(a) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

(b) Evidence linking the account to the user; or

(c) A finding by the court that the user had a specific account with the custodian, identifiable by the information specified in paragraph (a) of this subdivision.

472.475. 1. Not later than sixty days after receipt of the

information required under sections 472.430 to 472.470, a custodian shall comply with a request under sections 472.400 to 472.490 from a fiduciary or designated recipient to disclose digital assets or terminate an account. If the custodian fails to comply, the fiduciary or designated recipient may apply to the court for an order directing compliance.

2. An order under subsection 1 of this section directing compliance shall contain a finding that compliance is not in violation of 18 U.S.C. Section 2702, as amended.

3. A custodian may notify the user that a request for disclosure or to terminate an account was made under sections 472.400 to 472.490.

4. A custodian may deny a request under sections 472.400 to 472.490 from a fiduciary or designated recipient for disclosure of digital assets or to terminate an account if the custodian is aware of any lawful access to the account following the receipt of the fiduciary's request.

5. Sections 472.400 to 472.490 do not limit a custodian's ability to obtain or require a fiduciary or designated recipient requesting disclosure or termination under such sections to obtain a court order which:

(1) Specifies that an account belongs to the protected person or principal;

(2) Specifies that there is sufficient consent from the protected person or principal to support the requested disclosure; and

(3) Contains a finding required by law other than as provided under sections 472.400 to 472.490.

6. A custodian and its officers, employees, and agents are immune from liability for an act or omission done in good faith in compliance with sections 472.400 to 472.490.

472.480. In applying and construing sections 472.400 to 472.490, consideration may be given to the need to promote uniformity of the law with respect to its subject matter among states that enact similar provisions.

472.485. Sections 472.400 to 472.490 modify, limit, or supersede the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but do not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

472.490. If any provision of sections 472.400 to 472.490 or the application of such sections to any person or circumstance is held invalid, the invalidity does not affect other provisions or application of sections 472.400 to 472.490 which can be given effect without the invalid provision or application, and to this end the provisions of sections 472.400 to 472.490 are severable.

475.084. If a guardian has been appointed for a minor under the provisions of subdivision (2) of subsection 4 of section 475.030, then a parent of the minor may petition the court for periods of visitation. The court may order visitation if visitation is in the best interest of the child.

475.600. Sections 210.1109, 475.600, 475.602, and 475.604 shall be known and may be cited as the "Supporting and Strengthening Families Act".

475.602. 1. A parent or legal custodian of a child may, by a properly executed power of attorney as provided under section 475.604, delegate to an attorney-in-fact for a period not to exceed one year, except as provided under subsection 7 of this section, any of the powers regarding the care and custody of the child, except the power to consent to marriage or adoption of the child, the performance or inducement of an abortion on or for the child, or the termination of parental rights to the child. A delegation of powers under this section shall not be construed to change or modify any parental or legal rights, obligations, or authority established by an existing court order or deprive the parent or legal custodian of any parental or legal rights, obligations, or authority regarding the custody, visitation, or support of the child.

2. The parent or legal custodian of the child shall have the authority to revoke or withdraw the power of attorney authorized in subsection 1 of this section at any time. Except as provided in subsection 7 of this section, if the delegation of authority lasts longer than one year, the parent or legal custodian of the child shall execute a new power of attorney for each additional year that the delegation exists. If a parent withdraws or revokes the power of attorney, the child shall be returned to the custody of the parents as soon as reasonably possible.

3. Unless the authority is revoked or withdrawn by the parent, the attorney-in-fact shall exercise parental or legal authority on a continuous basis without compensation for the duration of the power of attorney authorized by subsection 1 of

this section and shall not be subject to any statutes dealing with the licensing or regulation of foster care homes.

4. Except as otherwise provided by law, the execution of a power of attorney by a parent or legal custodian as authorized in subsection 1 of this section shall not constitute abandonment, abuse, or neglect as defined in law unless the parent or legal guardian fails to take custody of the child or execute a new power of attorney after the one-year time limit has elapsed. However, it shall be a violation of section 453.110 for a parent or legal custodian to execute a power of attorney with the intention of permanently avoiding or divesting himself or herself of parental and/or legal responsibility for the care of the child.

5. Under a delegation of powers as authorized by subsection 1 of this section, the child or children subject to the power of attorney shall not be considered placed in foster care as otherwise defined in law and the parties shall not be subject to any of the requirements or licensing regulations for foster care or other regulations relating to community care for children.

6. A community service program that offers support services for families in crisis under this section shall ensure that a background check is completed for the attorney-in-fact and any adult members of his or her household prior to the placement of the child. A background check performed under this section shall include:

(1) A national and state fingerprint-based criminal history check;

(2) A sex offender registry check; and

(3) A child abuse and neglect registry, as established pursuant to section 210.109, check.

7. A parent or legal custodian who is a member of the Armed Forces of the United States including any reserve component thereof, the commissioned corps of the National Oceanic and Atmospheric Administration, the Public Health Service of the United States Department of Health and Human Services detailed by proper authority for duty with the Armed Forces of the United States, or who is required to enter or serve in the active military service of the United States under a call or order of the President of the United States or to serve on state active duty may delegate the powers designated in subsection 1 of this section for a period longer than one year if on active duty service. The term of delegation shall not exceed the term of active duty service plus thirty days.

8. Nothing in this section shall conflict or set aside the preexisting residency requirements under section 167.020. An attorney-in-fact to whom powers are delegated under a power of attorney authorized by this section shall make arrangements to ensure that the child attends classes at an appropriate school based upon residency or waiver of such residency requirements by the school.

9. As soon as reasonably possible upon execution of a power of attorney for the temporary care of a child as authorized under this section, the child's school shall be notified of the existence of the power of attorney and be provided a copy of the power of attorney as well as the contact information for the attorney-in-fact. While the power of attorney is in force, the

school shall communicate with both the attorney-in-fact and any parent or legal custodian with parental or legal rights, obligations, or authority regarding the custody, visitation, or support of the child. The school shall also be notified of the expiration, termination, or revocation of the power of attorney as soon as reasonably possible following such expiration, termination, or revocation and shall no longer communicate with the attorney-in-fact regarding the child upon the receipt of such notice.

10. No delegation of powers under this section shall operate to modify a child's eligibility for benefits the child is receiving at the time of the execution of the power of attorney including, but not limited to, eligibility for free or reduced lunch, health care costs, or other social services, except as may be inconsistent with federal or state law governing the relevant program or benefit.

475.604. Any form for the delegation of powers authorized under section 475.602 shall be witnessed by a notary public and contain the following information:

(1) The full name of any child for whom parental and legal authority is being delegated;

(2) The date of birth of any child for whom parental and legal authority is being delegated;

(3) The full name and signature of the attorney-in-fact;

(4) The address and telephone number of the attorney-in-fact;

(5) The full name and signature of the parent or legal guardian;

(6) One of the following statements:

(a) "I delegate to the attorney-in-fact all of my power and authority regarding the care, custody, and property of each minor child named above including, but not limited to, the right to enroll the child in school, inspect and obtain copies of education and other records concerning the child, the right to give or withhold any consent or waiver with respect to school activities, medical and dental treatment, and any other activity, function, or treatment that may concern the child. This delegation shall not include the power or authority to consent to marriage or adoption of the child, the performance or inducement of an abortion on or for the child, or the termination of parental rights to the child."; or

(b) "I delegate to the attorney-in-fact the following specific powers and responsibilities (insert list). This delegation shall not include the power or authority to consent to marriage or adoption of the child, the performance or inducement of an abortion on or for the child, or the termination of parental rights to the child."; and

(7) A description of the time for which the delegation is being made and an acknowledgment that the delegation may be revoked at any time.

478.463. There shall be nineteen circuit judges in the sixteenth judicial circuit consisting of the county of Jackson. These judges shall sit in nineteen divisions. Divisions one, three, four, six, seven, eight, nine, ten, eleven, **[**twelve,**]** thirteen, fourteen, fifteen, and eighteen shall sit at the city of Kansas City and divisions two, five, twelve, sixteen, and

seventeen shall sit at the city of Independence. Division nineteen shall sit at both the city of Kansas City and the city of Independence. Notwithstanding the foregoing provisions, the judge of the probate division shall sit at both the city of Kansas City and the city of Independence.

479.020. 1. Any city, town or village, including those operating under a constitutional or special charter, may, and cities with a population of four hundred thousand or more shall, provide by ordinance or charter for the selection, tenure and compensation of a municipal judge or judges consistent with the provisions of this chapter who shall have original jurisdiction to hear and determine all violations against the ordinances of the municipality. The method of selection of municipal judges shall be provided by charter or ordinance. Each municipal judge shall be selected for a term of not less than two years as provided by charter or ordinance.

2. Except where prohibited by charter or ordinance, the municipal judge may be a part-time judge and may serve as municipal judge in more than one municipality.

3. No person shall serve as a municipal judge of any municipality with a population of seven thousand five hundred or more or of any municipality in a county of the first class with a charter form of government unless the person is licensed to practice law in this state unless, prior to January 2, 1979, such person has served as municipal judge of that same municipality for at least two years.

4. Notwithstanding any other statute, a municipal judge need not be a resident of the municipality or of the circuit in

which the municipal judge serves except where ordinance or charter provides otherwise. Municipal judges shall be residents of Missouri.

5. Judges selected under the provisions of this section shall be municipal judges of the circuit court and shall be divisions of the circuit court of the circuit in which the municipality, or major geographical portion thereof, is located. The judges of these municipal divisions shall be subject to the rules of the circuit court which are not inconsistent with the rules of the supreme court. The presiding judge of the circuit shall have general administrative authority over the judges and court personnel of the municipal divisions within the circuit.

6. No municipal judge shall hold any other office in the municipality which the municipal judge serves as judge. The compensation of any municipal judge and other court personnel shall not be dependent in any way upon the number of cases tried, the number of guilty verdicts reached or the amount of fines imposed or collected.

7. Municipal judges shall be at least twenty-one years of age. No person shall serve as municipal judge after that person has reached that person's seventy-fifth birthday.

8. Within six months after selection for the position, each municipal judge who is not licensed to practice law in this state shall satisfactorily complete the course of instruction for municipal judges prescribed by the supreme court. The state courts administrator shall certify to the supreme court the names of those judges who satisfactorily complete the prescribed course. If a municipal judge fails to complete satisfactorily

the prescribed course within six months after the municipal judge's selection as municipal judge, the municipal judge's office shall be deemed vacant and such person shall not thereafter be permitted to serve as a municipal judge, nor shall any compensation thereafter be paid to such person for serving as municipal judge.

9. No municipal judge shall serve as a municipal judge in more than five municipalities at one time. A court that serves more than one municipality shall be treated as a single municipality for purposes of this subsection.

479.170. 1. If, in the progress of any trial before a municipal judge, it shall appear to the judge that the accused ought to be put upon trial for an offense against the criminal laws of the state and not cognizable before him as municipal judge, he shall immediately stop all further proceedings before him as municipal judge and cause the complaint to be made before some associate circuit judge within the county.

2. For purposes of this section, any offense involving the operation of a motor vehicle in an intoxicated condition as defined in section 577.001 shall not be cognizable in municipal court, if the defendant has been convicted, found guilty, or pled guilty to two or more previous intoxication-related traffic offenses as defined in section **[**577.023**]** 577.001, or has had two or more previous alcohol-related enforcement contacts as defined in section 302.525.

479.353. 1. Notwithstanding any provisions to the contrary, the following conditions shall apply to minor traffic violations and municipal ordinance violations:

(1) The court shall not assess a fine, if combined with the amount of court costs, totaling in excess of:

(a) Two hundred twenty-five dollars for minor traffic violations; and

(b) For municipal ordinance violations committed within a twelve-month period beginning with the first violation: two hundred dollars for the first municipal ordinance violation, two hundred seventy-five dollars for the second municipal ordinance violation, three hundred fifty dollars for the third municipal ordinance violation, and four hundred fifty dollars for the fourth and any subsequent municipal ordinance violations;

(2) The court shall not sentence a person to confinement, except the court may sentence a person to confinement for any violation involving alcohol or controlled substances, violations endangering the health or welfare of others, or eluding or giving false information to a law enforcement officer;

(3) A person shall not be placed in confinement for failure to pay a fine unless such nonpayment violates terms of probation or unless the due process procedures mandated by Missouri supreme court rule 37.65 or its successor rule are strictly followed by the court;

(4) Court costs that apply shall be assessed against the defendant unless the court finds that the defendant is indigent based on standards set forth in determining such by the presiding judge of the circuit. Such standards shall reflect model rules and requirements to be developed by the supreme court; and

(5) No court costs shall be assessed if the defendant is found to be indigent under subdivision (4) of this section or if

the case is dismissed.

2. When an individual has been held in custody on a notice to show cause warrant for an underlying minor traffic violation, the court, on its own motion or on the motion of any interested party, may review the original fine and sentence and waive or reduce such fine or sentence when the court finds it reasonable given the circumstances of the case.

479.354. For any notice to appear in court, citation, or summons on a minor traffic violation, the date and time the defendant is to appear in court shall be given when such notice to appear in court, citation, or summons is first provided to the defendant. Failure to provide such date and time shall render such notice to appear in court, citation, or summons void.

488.029. There shall be assessed and collected a surcharge of one hundred fifty dollars in all criminal cases for any violation of chapter 195 or chapter 579 in which a crime laboratory makes analysis of a controlled substance, but no such surcharge shall be assessed when the costs are waived or are to be paid by the state or when a criminal proceeding or the defendant has been dismissed by the court. The moneys collected by clerks of the courts pursuant to the provisions of this section shall be collected and disbursed as provided by sections 488.010 to 488.020. All such moneys shall be payable to the director of revenue, who shall deposit all amounts collected pursuant to this section to the credit of the state forensic laboratory account to be administered by the department of public safety pursuant to section 650.105.

488.2206. 1. In addition to all court fees and costs

prescribed by law, a surcharge of up to ten dollars shall be assessed as costs in each court proceeding filed in any court within **[**the thirty-first judicial circuit**]** any judicial circuit composed of a single noncharter county in all civil and criminal cases including violations of any county or municipal ordinance or any violation of a criminal or traffic law of the state, including an infraction, except that no such surcharge shall be collected in any proceeding in any court when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the state, county, or municipality. For violations of the general criminal laws of the state or county ordinances, no such surcharge shall be collected unless it is authorized, by order, ordinance, or resolution by the county government where the violation occurred. For violations of municipal ordinances, no such surcharge shall be collected unless it is authorized by order, ordinance, or resolution by the municipal government where the violation occurred. Such surcharges shall be collected and disbursed by the clerk of each respective court responsible for collecting court costs in the manner provided by sections 488.010 to 488.020, and shall be payable to the treasurer of the political subdivision authorizing such surcharge, who shall deposit the funds in a separate account known as the "justice center fund", to be established and maintained by the political subdivision.

2. Each county or municipality shall use all funds received pursuant to this section only to pay for the costs associated with the land assemblage and purchase, planning, construction, maintenance, and operation of any county or municipal judicial

facility or justice center including, but not limited to, architectural, engineering, and other plans and studies, debt service, utilities, maintenance, and building security. The county or municipality shall maintain records identifying [such operating costs, and any moneys not needed for the operating costs of the county or municipal judicial facility shall be transmitted quarterly to the general revenue fund of the county or municipality respectively] all funds received and expenditures made from their respective center funds.

488.2250. 1. For all appeal transcripts of testimony given [or proceedings in any circuit court], the court reporter shall receive the sum of three dollars and fifty cents per legal page for the preparation of a paper and an electronic version of the transcript.

2. In criminal cases where an appeal is taken by the defendant and it appears to the satisfaction of the court that the defendant is unable to pay the costs of the transcript for the purpose of perfecting the appeal, the court reporter shall receive a fee of two dollars and sixty cents per legal page for the preparation of a paper and an electronic version of the transcript.

3. Any judge, in his or her discretion, may order a transcript of all or any part of the evidence or oral proceedings and the court reporter shall receive the sum of two dollars and sixty cents per legal page for the preparation of a paper and an electronic version of the transcript.

4. For purposes of this section, a legal page, other than the first page and the final page of the transcript, shall be

twenty-five lines, approximately eight and one-half inches by eleven inches in size, with the left-hand margin of approximately one and one-half inches, and with the right-hand margin of approximately one-half inch.

5. Notwithstanding any law to the contrary, the payment of court reporter's fees provided in subsections 2 and 3 of this section shall be made by the state upon a voucher approved by the court. The cost to prepare all other transcripts of testimony or proceedings shall be borne by the party requesting their preparation and production, who shall reimburse the court reporter **[**the sum provided in subsection 1 of this section**]**.

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

2. A surcharge of thirty dollars shall be assessed as costs in each circuit court proceeding filed within this state in all criminal cases in which the defendant is found guilty of a felony, except when the defendant is found guilty of a class B felony, class A felony, or an unclassified felony, under chapter 195 or chapter 579, in which case, the surcharge shall be sixty dollars. A surcharge of fifteen dollars shall be assessed as costs in each court proceeding filed within this state in all other criminal cases, except for traffic violation cases in which the defendant is found guilty of a misdemeanor.

3. Notwithstanding any other provisions of law, the moneys collected by clerks of the courts pursuant to the provisions of subsection 1 of this section shall be collected and disbursed in

accordance with sections 488.010 to 488.020, and shall be payable to the state treasurer.

4. The state treasurer shall deposit such moneys or other gifts, grants, or moneys received on a monthly basis into the "DNA Profiling Analysis Fund", which is hereby created in the state treasury. The fund shall be administered by the department of public safety. The moneys deposited into the DNA profiling analysis fund shall be used only by the highway patrol crime lab to fulfill the purposes of the DNA profiling system pursuant to section 650.052. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

5. The provisions of subsections 1 and 2 of this section shall expire on August 28, 2019.

513.430. 1. The following property shall be exempt from attachment and execution to the extent of any person's interest therein:

(1) Household furnishings, household goods, wearing apparel, appliances, books, animals, crops or musical instruments that are held primarily for personal, family or household use of such person or a dependent of such person, not to exceed three thousand dollars in value in the aggregate;

(2) A wedding <u>or engagement</u> ring not to exceed one thousand five hundred dollars in value and other jewelry held primarily for the personal, family or household use of such person or a dependent of such person, not to exceed five hundred dollars in value in the aggregate;

(3) Any other property of any kind, not to exceed in value **[**six hundred**]** one thousand two hundred dollars in the aggregate;

(4) Any implements or professional books or tools of the trade of such person or the trade of a dependent of such person not to exceed three thousand dollars in value in the aggregate;

(5) Any motor vehicles, not to exceed three thousand dollars in value in the aggregate;

(6) Any mobile home used as the principal residence but not attached to real property in which the debtor has a fee interest, not to exceed five thousand dollars in value;

(7) Any one or more unmatured life insurance contracts owned by such person, other than a credit life insurance contract, and up to fifteen thousand dollars of any matured life insurance proceeds for actual funeral, cremation, or burial expenses where the deceased is the spouse, child, or parent of the beneficiary;

(8) The amount of any accrued dividend or interest under, or loan value of, any one or more unmatured life insurance contracts owned by such person under which the insured is such person or an individual of whom such person is a dependent; provided, however, that if proceedings under Title 11 of the United States Code are commenced by or against such person, the amount exempt in such proceedings shall not exceed in value one hundred fifty thousand dollars in the aggregate less any amount of property of such person transferred by the life insurance company or fraternal benefit society to itself in good faith if such transfer is to pay a premium or to carry out a nonforfeiture insurance option and is required to be so transferred

automatically under a life insurance contract with such company or society that was entered into before commencement of such proceedings. No amount of any accrued dividend or interest under, or loan value of, any such life insurance contracts shall be exempt from any claim for child support. Notwithstanding anything to the contrary, no such amount shall be exempt in such proceedings under any such insurance contract which was purchased by such person within one year prior to the commencement of such proceedings;

(9) Professionally prescribed health aids for such person or a dependent of such person;

(10) Such person's right to receive:

(a) A Social Security benefit, unemployment compensation or a public assistance benefit;

(b) A veteran's benefit;

(c) A disability, illness or unemployment benefit;

(d) Alimony, support or separate maintenance, not to exceed seven hundred fifty dollars a month;

(e) Any payment under a stock bonus plan, pension plan, disability or death benefit plan, profit-sharing plan, nonpublic retirement plan or any plan described, defined, or established pursuant to section 456.014, the person's right to a participant account in any deferred compensation program offered by the state of Missouri or any of its political subdivisions, or annuity or similar plan or contract on account of illness, disability, death, age or length of service, to the extent reasonably necessary for the support of such person and any dependent of such person unless:

a. Such plan or contract was established by or under the auspices of an insider that employed such person at the time such person's rights under such plan or contract arose;

b. Such payment is on account of age or length of service; and

c. Such plan or contract does not qualify under Section 401(a), 403(a), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as amended, (26 U.S.C. Section 401(a), 403(a), 403(b), 408, 408A or 409);

except that, any such payment to any person shall be subject to attachment or execution pursuant to a qualified domestic relations order, as defined by Section 414(p) of the Internal Revenue Code of 1986, as amended, issued by a court in any proceeding for dissolution of marriage or legal separation or a proceeding for disposition of property following dissolution of marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of marital property at the time of the original judgment of dissolution;

(f) Any money or assets, payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan, profit-sharing plan, health savings plan, or similar plan, including an inherited account or plan, that is qualified under Section 401(a), 401(k), 403(a), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as amended, whether such participant's or beneficiary's interest arises by inheritance, designation, appointment, or otherwise, except as provided in this paragraph or any type of individual

retirement arrangement as defined by Publication 590 of the Internal Revenue Service including, but not limited to, a traditional individual income retirement account (IRA), a ROTH IRA, a SEP IRA, and a simple IRA. The exemption amount for individual retirement arrangements shall be unlimited if allowed by federal law and otherwise limited to the maximum exemption allowed under federal law, including the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, as amended. Any plan or arrangement described in this paragraph shall not be exempt from the claim of an alternate payee under a qualified domestic relations order; however, the interest of any and all alternate payees under a qualified domestic relations order shall be exempt from any and all claims of any creditor, other than the state of Missouri through its department of social services. As used in this paragraph, the terms "alternate payee" and "qualified domestic relations order" have the meaning given to them in Section 414(p) of the Internal Revenue Code of 1986, as amended. If proceedings under Title 11 of the United States Code are commenced by or against such person, no amount of funds shall be exempt in such proceedings under any such plan, contract, or trust which is fraudulent as defined in subsection 2 of section 428.024 and for the period such person participated within three years prior to the commencement of such proceedings. For the purposes of this section, when the fraudulently conveyed funds are recovered and after, such funds shall be deducted and then treated as though the funds had never been contributed to the plan, contract, or trust;

(11) The debtor's right to receive, or property that is

traceable to, a payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(12) Firearms, firearm accessories, and ammunition, not to exceed one thousand five hundred dollars in value in the aggregate.

2. Nothing in this section shall be interpreted to exempt from attachment or execution for a valid judicial or administrative order for the payment of child support or maintenance any money or assets, payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan which is qualified pursuant to Section 408A of the Internal Revenue Code of 1986, as amended.

513.440. Each head of a family may select and hold, exempt from execution, any other property, real, personal or mixed, or debts and wages, not exceeding in value the amount of one thousand **[**two**]** six hundred fifty dollars plus **[**three**]** four hundred fifty dollars for each of such person's unmarried dependent children under the age of twenty-one years or dependent as defined by the Internal Revenue Code of 1986, as amended, determined to be disabled by the Social Security Administration, except ten percent of any debt, income, salary or wages due such head of a family.

514.040. 1. Except as provided in subsection 3 of this section, if any court shall, before or after the commencement of any suit pending before it, be satisfied that the plaintiff is a poor person, and unable to prosecute his or her suit, and pay all

or any portion of the costs and expenses thereof, such court may, in its discretion, permit him or her to commence and prosecute his or her action as a poor person, and thereupon such poor person shall have all necessary process and proceedings as in other cases, without fees, tax or charge as the court determines the person cannot pay; and the court may assign to such person counsel, who, as well as all other officers of the court, shall perform their duties in such suit without fee or reward as the court may excuse; but if judgment is entered for the plaintiff, costs shall be recovered, which shall be collected for the use of the officers of the court.

2. In any civil action brought in a court of this state by any offender convicted of a crime who is confined in any state prison or correctional center, the court shall not reduce the amount required as security for costs upon filing such suit to an amount of less than ten dollars pursuant to this section. This subsection shall not apply to any action for which no sum as security for costs is required to be paid upon filing such suit.

3. Where a party is represented in a civil action by a legal aid society or a legal services or other nonprofit organization funded in whole or substantial part by moneys appropriated by the general assembly of the state of Missouri, which has as its primary purpose the furnishing of legal services to indigent persons, by a law school clinic which has as its primary purpose educating law students through furnishing legal services to indigent persons, or by private counsel working on behalf of or under the auspices of such society, all costs and expenses<u>, except guardian ad litem fees as provided by this</u>

subsection, related to the prosecution of the suit may be waived without the necessity of a motion and court approval, provided that a determination has been made by such society or organization that such party is unable to pay the costs, fees and expenses necessary to prosecute or defend the action, and that a certification that such determination has been made is filed with the clerk of the court. In the event an action involving the appointment of a guardian ad litem goes to trial, an updated certification shall be filed prior to the trial commencing. The waiver of guardian ad litem fees for a party who has filed a certification may be reviewed by the court at the conclusion of the action upon the motion of any party requesting the court to apportion guardian ad litem fees.

4. Any party may present additional evidence on the financial condition of the parties. Based upon that evidence, if the court finds the certifying party has the present ability to pay, the court may enter judgment ordering the certifying party to pay a portion of the guardian ad litem fees.

5. Any failure to pay guardian ad litem fees shall not preclude a certifying party from filing future suits, including motions to modify, and shall not be used as a basis to limit the certifying party's prosecution or defense of the action.

515.575. 1. Except as otherwise ordered by the court, the entry of an order appointing a general receiver shall operate as a stay, applicable to all persons, of:

(1) The commencement or continuation, including the issuance, employment, or service of process, of a judicial, administrative, or other action or proceeding against the debtor

that was or could have been commenced before the entry of the order of appointment, or to recover a claim against the debtor that arose before the entry of the order of appointment;

(2) The enforcement against the debtor or any estate property of a judgment obtained before the order of appointment;

(3) Any act to obtain possession of estate property from the receiver, or to interfere with, or exercise control over, estate property;

(4) Any act to create, perfect, or enforce any lien or claim against estate property except by exercise of a right of setoff, to the extent that the lien secures a claim against the debtor that arose before the entry of the order of appointment; or

(5) Any act to collect, assess, or recover a claim against the debtor that arose before the entry of the order of appointment.

2. The stay shall automatically expire as to the acts specified in subdivisions (1), (2), and **[**(3)**]** (5) of subsection 1 of this section sixty days after the entry of the order of appointment unless before the expiration of the sixty-day period the debtor or receiver, for good cause shown, obtains an order of the court extending the stay, after notice and a hearing. A person whose action or proceeding is stayed by motion to the court may seek relief from the stay for good cause shown. Any judgment obtained against the debtor or estate property following the entry of the order of appointment is not a lien against estate property unless the receivership is terminated prior to a conveyance of the property against which the judgment would

otherwise constitute a lien.

3. The entry of an order appointing a receiver does not operate as a stay of:

(1) The commencement or continuation of a criminal proceeding against the debtor;

(2) The commencement or continuation of an action or proceeding to establish paternity, or to establish or modify an order for alimony, maintenance, or support, or to collect alimony, maintenance, or support under any order of a court;

(3) Any act to perfect or to maintain or continue the perfection of an interest in estate property pursuant to any generally applicable Missouri law that permits perfection of an interest in property to be effective against an entity that acquires rights in such property before the date of perfection. Such right to perfect an interest in estate property includes any act to perfect an interest in purchase money collateral pursuant to sections 400.9-301 to 400.9-339, perfection of a lien that may be placed against real property under the provisions of chapter 429, or the assertion of a right to continue in possession of any estate property that is in the possession of a person entitled to retain possession of such property pending payment for work performed with respect to such property. If perfection of an interest would otherwise require seizure of the property involved or the commencement of an action, the perfection shall instead be accomplished by filing, and by serving upon the receiver, or receiver's counsel, if any, notice of the interest within the time fixed by law for seizure or commencement;

(4) The commencement or continuation of an action or

proceeding by a governmental unit to enforce its police or regulatory power;

(5) The enforcement of a judgment, other than a money judgment, obtained in an action or proceeding by a governmental unit to enforce its police or regulatory power, or with respect to any licensure of the debtor;

(6) The exercise of a right of setoff, including but not limited to, any right of a commodity broker, forward contract merchant, stockbroker, financial institution, or securities clearing agency to set off a claim for a margin payment or settlement payment arising out of a commodity contract, forward contract, or securities contract against cash, securities, or other property held or due from the commodity broker, forward contract merchant, stockbroker, financial institution, or securities clearing agency to margin, guarantee, secure, or settle the commodity contract, forward contract, or securities contract, and any right of a swap participant to set off a claim for a payment due to the swap participant under or in connection with a swap agreement against any payment due from the swap participant under or in connection with the swap agreement or against cash, securities, or other property of the debtor held by or due from the swap participant to guarantee, secure, or settle the swap agreement;

(7) The establishment by a governmental unit of any tax liability and any appeal thereof; or

(8) Any action pending in a court other than that in which the receiver is appointed until transcription of the order appointing the receiver or extending the stay is made to the

other court in which an action against the debtor is pending.

4. For the purposes of subdivision (8) of subsection 3 of this section, the receiver or any party in interest is authorized to cause to be transcripted any order appointing a receiver or extending the stay to any and all courts in which any action against a debtor is pending in this state. A court that receives a transcript of an order of receivership or extension of stay may on its own order sua sponte transfer the matter before the court to the court issuing an order of receivership.

515.635. To the extent that funds are available in the estate for distribution to creditors in a general receivership, the holder of an allowed noncontingent, liquidated claim is entitled to receive interest at the legal rate or other applicable rate from the date of appointment of the receiver or the date on which the claim became a noncontingent, liquidated claim. If there are **[**sufficient**]** insufficient funds in the estate to fully pay all interest owing to all members of the class, then interest shall be paid proportionately to each member of the class.

552.020. 1. No person who as a result of mental disease or defect lacks capacity to understand the proceedings against him or her or to assist in his or her own defense shall be tried, convicted or sentenced for the commission of an offense so long as the incapacity endures.

2. Whenever any judge has reasonable cause to believe that the accused lacks mental fitness to proceed, **[**he**]** the judge shall, upon his or her own motion or upon motion filed by the state or by or on behalf of the accused, by order of record,

appoint one or more private psychiatrists or psychologists, as defined in section 632.005, or physicians with a minimum of one year training or experience in providing treatment or services to persons with an intellectual disability or developmental disability or mental illness, who are neither employees nor contractors of the department of mental health for purposes of performing the examination in question, to examine the accused; or shall direct the director to have the accused so examined by one or more psychiatrists or psychologists, as defined in section 632.005, or physicians with a minimum of one year training or experience in providing treatment or services to persons with an intellectual disability, developmental disability, or mental illness. The order shall direct that a written report or reports of such examination be filed with the clerk of the court. No private physician, psychiatrist, or psychologist shall be appointed by the court unless he or she has consented to act. The examinations ordered shall be made at such time and place and under such conditions as the court deems proper; except that, if the order directs the director of the department to have the accused examined, the director, or his or her designee, shall determine the time, place and conditions under which the examination shall be conducted. The order may include provisions for the interview of witnesses and may require the provision of police reports to the department for use in evaluations. The department shall establish standards and provide training for those individuals performing examinations pursuant to this section and section 552.030. No individual who is employed by or contracts with the department shall be designated to perform an

examination pursuant to this chapter unless the individual meets the qualifications so established by the department. Any examination performed pursuant to this subsection shall be completed and filed with the court within sixty days of the order unless the court for good cause orders otherwise. Nothing in this section or section 552.030 shall be construed to permit psychologists to engage in any activity not authorized by chapter 337. One pretrial evaluation shall be provided at no charge to the defendant by the department. All costs of subsequent evaluations shall be assessed to the party requesting the evaluation.

3. A report of the examination made under this section shall include:

(1) Detailed findings;

(2) An opinion as to whether the accused has a mental disease or defect;

(3) An opinion based upon a reasonable degree of medical or psychological certainty as to whether the accused, as a result of a mental disease or defect, lacks capacity to understand the proceedings against him or her or to assist in his or her own defense;

(4) A recommendation as to whether the accused should be held in custody in a suitable hospital facility for treatment pending determination, by the court, of mental fitness to proceed; and

(5) A recommendation as to whether the accused, if found by the court to be mentally fit to proceed, should be detained in such hospital facility pending further proceedings.

4. If the accused has pleaded lack of responsibility due to mental disease or defect or has given the written notice provided in subsection 2 of section 552.030, the court shall order the report of the examination conducted pursuant to this section to include, in addition to the information required in subsection 3 of this section, an opinion as to whether at the time of the alleged criminal conduct the accused, as a result of mental disease or defect, did not know or appreciate the nature, quality, or wrongfulness of his or her conduct or as a result of mental disease or defect was incapable of conforming his or her conduct to the requirements of law. A plea of not guilty by reason of mental disease or defect shall not be accepted by the court in the absence of any such pretrial evaluation which supports such a defense. In addition, if the accused has pleaded not guilty by reason of mental disease or defect, and the alleged crime is not a dangerous felony as defined in section 556.061, or those crimes set forth in subsection 11 of section 552.040, or the attempts thereof, the court shall order the report of the examination to include an opinion as to whether or not the accused should be immediately conditionally released by the court pursuant to the provisions of section 552.040 or should be committed to a mental health or developmental disability facility. If such an evaluation is conducted at the direction of the director of the department of mental health, the court shall also order the report of the examination to include an opinion as to the conditions of release which are consistent with the needs of the accused and the interest of public safety, including, but not limited to, the following factors:

(1) Location and degree of necessary supervision of housing;

(2) Location of and responsibilities for appropriate psychiatric, rehabilitation and aftercare services, including the frequency of such services;

(3) Medication follow-up, including necessary testing to monitor medication compliance;

(4) At least monthly contact with the department's forensic case monitor;

(5) Any other conditions or supervision as may be warranted by the circumstances of the case.

5. If the report contains the recommendation that the accused should be committed to or held in a suitable hospital facility pending determination of the issue of mental fitness to proceed, and if the accused is not admitted to bail or released on other conditions, the court may order that the accused be committed to or held in a suitable hospital facility pending determination of the issue of mental fitness to proceed.

6. The clerk of the court shall deliver copies of the report to the prosecuting or circuit attorney and to the accused or his or her counsel. The report shall not be a public record or open to the public. Within ten days after the filing of the report, both the defendant and the state shall, upon written request, be entitled to an order granting them an examination of the accused by a psychiatrist or psychologist, as defined in section 632.005, or a physician with a minimum of one year training or experience in providing treatment or services to persons with an intellectual disability or developmental

disability or mental illness, of their own choosing and at their own expense. An examination performed pursuant to this subsection shall be completed and a report filed with the court within sixty days of the date it is received by the department or private psychiatrist, psychologist or physician unless the court, for good cause, orders otherwise. A copy shall be furnished the opposing party.

7. If neither the state nor the accused nor his or her counsel requests a second examination relative to fitness to proceed or contests the findings of the report referred to in subsections 2 and 3 of this section, the court may make a determination and finding on the basis of the report filed or may hold a hearing on its own motion. If any such opinion is contested, the court shall hold a hearing on the issue. The court shall determine the issue of mental fitness to proceed and may impanel a jury of six persons to assist in making the determination. The report or reports may be received in evidence at any hearing on the issue but the party contesting any opinion therein shall have the right to summon and to cross-examine the examiner who rendered such opinion and to offer evidence upon the issue.

8. At a hearing on the issue pursuant to subsection 7 of this section, the accused is presumed to have the mental fitness to proceed. The burden of proving that the accused does not have the mental fitness to proceed is by a preponderance of the evidence and the burden of going forward with the evidence is on the party raising the issue. The burden of going forward shall be on the state if the court raises the issue.

9. If the court determines that the accused lacks mental fitness to proceed, the criminal proceedings shall be suspended and the court shall commit him or her to the director of the department of mental health. After the person has been committed, legal counsel for the department of mental health shall have standing to file motions and participate in hearings on the issue of involuntary medications.

10. Any person committed pursuant to subsection 9 of this section shall be entitled to the writ of habeas corpus upon proper petition to the court that committed him or her. The issue of the mental fitness to proceed after commitment under subsection 9 of this section may also be raised by a motion filed by the director of the department of mental health or by the state, alleging the mental fitness of the accused to proceed. A report relating to the issue of the accused's mental fitness to proceed may be attached thereto. If the motion is not contested by the accused or his or her counsel or if after a hearing on a motion the court finds the accused mentally fit to proceed, or if he or she is ordered discharged from the director's custody upon a habeas corpus hearing, the criminal proceedings shall be resumed.

11. The following provisions shall apply after a commitment as provided in this section:

(1) Six months after such commitment, the court which ordered the accused committed shall order an examination by the head of the facility in which the accused is committed, or a qualified designee, to ascertain whether the accused is mentally fit to proceed and if not, whether there is a substantial

probability that the accused will attain the mental fitness to proceed to trial in the foreseeable future. The order shall direct that written report or reports of the examination be filed with the clerk of the court within thirty days and the clerk shall deliver copies to the prosecuting attorney or circuit attorney and to the accused or his or her counsel. The report required by this subsection shall conform to the requirements under subsection 3 of this section with the additional requirement that it include an opinion, if the accused lacks mental fitness to proceed, as to whether there is a substantial probability that the accused will attain the mental fitness to proceed in the foreseeable future;

(2) Within ten days after the filing of the report, both the accused and the state shall, upon written request, be entitled to an order granting them an examination of the accused by a psychiatrist or psychologist, as defined in section 632.005, or a physician with a minimum of one year training or experience in providing treatment or services to persons with an intellectual disability or developmental disability or mental illness, of their own choosing and at their own expense. An examination performed pursuant to this subdivision shall be completed and filed with the court within thirty days unless the court, for good cause, orders otherwise. A copy shall be furnished to the opposing party;

(3) If neither the state nor the accused nor his or her counsel requests a second examination relative to fitness to proceed or contests the findings of the report referred to in subdivision (1) of this subsection, the court may make a

determination and finding on the basis of the report filed, or may hold a hearing on its own motion. If any such opinion is contested, the court shall hold a hearing on the issue. The report or reports may be received in evidence at any hearing on the issue but the party contesting any opinion therein relative to fitness to proceed shall have the right to summon and to cross-examine the examiner who rendered such opinion and to offer evidence upon the issue;

(4) If the accused is found mentally fit to proceed, the criminal proceedings shall be resumed;

(5) If it is found that the accused lacks mental fitness to proceed but there is a substantial probability the accused will be mentally fit to proceed in the reasonably foreseeable future, the court shall continue such commitment for a period not longer than six months, after which the court shall reinstitute the proceedings required under subdivision (1) of this subsection;

(6) If it is found that the accused lacks mental fitness to proceed and there is no substantial probability that the accused will be mentally fit to proceed in the reasonably foreseeable future, the court shall dismiss the charges without prejudice and the accused shall be discharged, but only if proper proceedings have been filed under chapter 632 or chapter 475, in which case those sections and no others will be applicable. The probate division of the circuit court shall have concurrent jurisdiction over the accused upon the filing of a proper pleading to determine if the accused shall be involuntarily detained under chapter 632, or to determine if the accused shall be declared incapacitated under chapter 475, and approved for admission by

the guardian under section 632.120 or 633.120, to a mental health or developmental disability facility. When such proceedings are filed, the criminal charges shall be dismissed without prejudice if the court finds that the accused is mentally ill and should be committed or that he or she is incapacitated and should have a guardian appointed. The period of limitation on prosecuting any criminal offense shall be tolled during the period that the accused lacks mental fitness to proceed.

12. If the question of the accused's mental fitness to proceed was raised after a jury was impaneled to try the issues raised by a plea of not guilty and the court determines that the accused lacks the mental fitness to proceed or orders the accused committed for an examination pursuant to this section, the court may declare a mistrial. Declaration of a mistrial under these circumstances, or dismissal of the charges pursuant to subsection 11 of this section, does not constitute jeopardy, nor does it prohibit the trial, sentencing or execution of the accused for the same offense after he or she has been found restored to competency.

13. The result of any examinations made pursuant to this section shall not be a public record or open to the public.

14. No statement made by the accused in the course of any examination or treatment pursuant to this section and no information received by any examiner or other person in the course thereof, whether such examination or treatment was made with or without the consent of the accused or upon his or her motion or upon that of others, shall be admitted in evidence against the accused on the issue of guilt in any criminal

proceeding then or thereafter pending in any court, state or federal. A finding by the court that the accused is mentally fit to proceed shall in no way prejudice the accused in a defense to the crime charged on the ground that at the time thereof he or she was afflicted with a mental disease or defect excluding responsibility, nor shall such finding by the court be introduced in evidence on that issue nor otherwise be brought to the notice of the jury.

557.035. 1. For all violations of section 565.054 or 565.090, subdivision (1) of subsection 1 of section 569.100, or subdivision (1), (2), (3), (4), (6), (7) or (8) of subsection 1 of section 571.030, which the state believes to be knowingly motivated because of race, color, religion, national origin, sex, sexual orientation or disability of the victim or victims, the state may charge the offense or offenses under this section, and the violation is a class D felony.

2. For all violations of section **[**565.054**]** 565.056; **[**subdivisions (1), (3) and (4) of subsection 1 of section 565.090;**]** subdivision (1) of subsection 1 of section 569.090; subdivision (1) of subsection 1 of section 569.120; section 569.140; or section 574.050; which the state believes to be knowingly motivated because of race, color, religion, national origin, sex, sexual orientation or disability of the victim or victims, the state may charge the offense or offenses under this section, and the violation is a class E felony.

3. The court shall assess punishment in all of the cases in which the state pleads and proves any of the motivating factors listed in this section.

565.076. 1. A person commits the offense of domestic assault in the fourth degree if the act involves a domestic victim, as the term "domestic victim" is defined under section 565.002, and:

(1) The person attempts to cause or recklessly causes physical injury, physical pain, or illness to such domestic victim;

(2) With criminal negligence the person causes physical injury to such domestic victim by means of a deadly weapon or dangerous instrument;

(3) The person purposely places such domestic victim in apprehension of immediate physical injury by any means;

(4) The person recklessly engages in conduct which creates a substantial risk of death or serious physical injury to such domestic victim;

(5) The person knowingly causes physical contact with such domestic victim knowing he or she will regard the contact as offensive; or

(6) The person knowingly attempts to cause or causes the isolation of such domestic victim by unreasonably and substantially restricting or limiting his or her access to other persons, telecommunication devices or transportation for the purpose of isolation.

2. The offense of domestic assault in the fourth degree is a class A misdemeanor, unless the person has previously been found guilty of the offense of <u>domestic</u> assault **[**of a domestic victim**]**<u>, of any assault offense under this chapter, or of any offense against a domestic victim committed in violation of any</u>

county or municipal ordinance in any state, any state law, any federal law, or any military law which if committed in this state two or more times**[,]** would be a violation of this section, in which case it is a class E felony. The offenses described in this subsection may be against the same domestic victim or against different domestic victims.

565.091. 1. A person commits the offense of harassment in the second degree if he or she, without good cause, engages in any act with the purpose to cause emotional distress to another person.

2. The offense of harassment in the second degree is a class A misdemeanor, unless the person has previously pleaded guilty to or been found guilty of a violation of this section, of any offense committed in violation of any county or municipal ordinance in any state, any state law, any federal law, or any military law which if committed in this state would be chargeable or indictable as a violation of any offense listed in this subsection, in which case it is a class E felony.

3. This section shall not apply to activities of federal, state, county, or municipal law enforcement officers conducting investigations of violations of federal, state, county, or municipal law.

566.010. As used in this chapter and chapter 568, the following terms mean:

(1) "Aggravated sexual offense", any sexual offense, in the course of which, the actor:

(a) Inflicts serious physical injury on the victim; **[**or**]**

(b) Displays a deadly weapon or dangerous instrument in a

threatening manner; **[**or**]**

(c) Subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person; **[**or**]**

(d) Had previously been found guilty of an offense under this chapter or under section 573.200, child used in sexual performance; section 573.205, promoting sexual performance by a child; section 573.023, sexual exploitation of a minor; section 573.025, promoting child pornography in the first degree; section 573.035, promoting child pornography in the second degree; section 573.037, possession of child pornography; or section 573.040, furnishing pornographic materials to minors; or has previously been found guilty of an offense in another jurisdiction which would constitute an offense under this chapter or said sections;

(e) Commits the offense as part of an act or series of acts performed by two or more persons as part of an established or prescribed pattern of activity; or

(f) Engages in the act that constitutes the offense with a person the actor knows to be, without regard to legitimacy, the actor's:

a. Ancestor or descendant by blood or adoption;

b. Stepchild while the marriage creating that relationship exists;

c. Brother or sister of the whole or half blood; or

d. Uncle, aunt, nephew, or niece of the whole blood;

(2) "Commercial sex act", any sex act on account of which anything of value is given to or received by any person;

(3) "Deviate sexual intercourse", any act involving the

genitals of one person and the hand, mouth, tongue, or anus of another person or a sexual act involving the penetration, however slight, of the penis, female genitalia, or the anus by a finger, instrument or object done for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim;

(4) "Forced labor", a condition of servitude induced by means of:

(a) Any scheme, plan, or pattern of behavior intended to cause a person to believe that, if the person does not enter into or continue the servitude, such person or another person will suffer substantial bodily harm or physical restraint; or

(b) The abuse or threatened abuse of the legal process;

(5) "Sexual conduct", sexual intercourse, deviate sexual intercourse or sexual contact;

(6) "Sexual contact", any touching of another person with the genitals or any touching of the genitals or anus of another person, or the breast of a female person, or such touching through the clothing, for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim;

(7) "Sexual intercourse", any penetration, however slight, of the female genitalia by the penis.

570.095. 1. A person commits the offense of filing false documents if:

(1) With the intent to defraud, deceive, harass, alarm, or negatively impact financially, or in such a manner reasonably calculated to deceive, defraud, harass, alarm, or negatively

impact financially, he or she files, causes to be filed or recorded, or attempts to file or record, creates, uses as genuine, transfers or has transferred, presents, or prepares with knowledge or belief that it will be filed, presented, recorded, or transferred to the secretary of state or his or her designee, or any county or independent city recorder of deeds or his or her designee, any municipal, county, district, or state government entity, division, agency, or office, or any credit bureau or financial institution, any of the following types of documents:

(a) Common law lien;

(b) Uniform commercial code filing or record;

(c) Real property recording;

(d) Financing statement;

(e) Contract;

(f) Warranty, special, or quitclaim deed;

(g) Quiet title claim or action;

(h) Deed in lieu of foreclosure;

(i) Legal affidavit;

(j) Legal process;

(k) Legal summons;

(l) Bills and due bills;

(m) Criminal charging documents or materially false criminal charging documents;

(n) Any other document not stated in this subdivision that is related to real property; or

(o) Any state, county, district, federal, municipal, credit bureau, or financial institution form or document; and

(2) Such documents listed in subdivision (1) of this

subsection contain materially false information, or are fraudulent, or are a forgery, as defined in section 570.090, or lack the consent of all parties listed in documents where mutual consent is required, or are invalid under Missouri law.

2. Filing false documents under this section is a class D felony for the first offense except under the following circumstances where filing false documents is a class C felony:

(1) The defendant has been previously found guilty or pleaded guilty to a violation of this section;

(2) The victim or named party in the matter:

(a) Is an official elected to municipal, county, district, federal, or statewide office;

(b) Is an official who was appointed to municipal, county, district, federal, or statewide office; or

(c) Is an employee of an official who has been elected or appointed to municipal, county, district, federal, or statewide office;

(3) The victim or named party in the matter is a judge or magistrate of:

(a) Any court or division of the court in this or any other state or an employee of any court of this state or any other state; or

(b) Any court system of the United States or is an employee of any court of the United States;

(4) The victim or named party in the matter is a full-time, part-time, or reserve or auxiliary peace officer, as defined in section 590.010, licensed in this state or any other state;

(5) The victim or named party in the matter is a full-time,

part-time, or volunteer firefighter in this state or any other state;

(6) The victim or named party in the matter is an officer of federal job class 1811 who is empowered to enforce United States laws;

(7) The victim or named party in the matter is a law enforcement officer of the United States as defined in 5 U.S.C. 8401(17)(A) or (D);

(8) The victim or named party in the matter is an employee of any law enforcement or legal prosecution agency in this state or any other state or the United States;

(9) The victim or named party in the matter is an employee of a federal agency that has agents or officers who are of job class 1811 who are empowered to enforce United States laws or is an employee of a federal agency that has law enforcement officers as defined in 5 U.S.C. 8401(17)(A) or (D);

(10) The victim or named party in the matter is an officer of the railroad police as defined in section 388.600.

3. For a penalty enhancement as described in subsection 2 of this section to apply, the occupation of the victim or named party shall be material to the subject matter of the document or documents filed or the relief sought by the document or documents filed, and the occupation of the victim or named party shall be materially connected to the apparent reason that the victim has been named, victimized, or involved. For purposes of this subsection and subsection 2 of this section, a person who has retired or resigned from any agency, institution, or occupation listed under subsection 2 of this section shall be considered the

same fashion as a person who remains in employment and shall also include the following family members of a person listed under subdivisions (2) to (9) of subsection 2 of this section:

(1) Such person's spouse;

(2) Such person or such person's spouse's ancestor or descendant by blood or adoption; or

(3) Such person's stepchild, while the marriage creating that relationship exists.

4. Any person who pleads guilty or is found guilty under subsections 1 to 3 of this section shall be ordered by the court to make full restitution to any person or entity that has sustained actual losses or costs as a result of the actions of the defendants. Such restitution shall not be paid in lieu of jail or prison time, but rather in addition to any jail or prison time imposed by the court.

5. (1) Nothing in this section shall limit the power of the state to investigate, charge, or punish any person for any conduct that constitutes a crime by any other statute of this state or the United States.

(2) There is no requirement under this section that the filing or record be retained by the receiving entity for prosecution under this section. A filing or record being rejected by the receiving entity shall not be used as an affirmative defense.

6. (1) Any statewide or county agency or similar agency that functions in independent cities of this state, which is responsible for or receives document filings or records, including county recorders of deeds and the office of secretary

of state, shall, by January 1, 2018, impose a system in which the documents that have been submitted to the receiving agency or in the case of the secretary of state those filings rejected under its legal authority are logged or noted in a ledger, spreadsheet, or similar recording method if the filing or recording officer or employee believes the filings or records appear to be fraudulent or contain suspicious verbiage. The receiving agency shall make available noted documents for review by the:

(a) Jurisdictional prosecuting or circuit attorney or his or her designee;

(b) County sheriff or his or her designee;

(c) County police chief or his or her designee;

(d) City police chief or his or her designee in independent cities; or

(e) Commissioned peace officers as defined in section 590.010.

Review of such documents is permissible for the agent or agencies under this subdivision without the need of a grand jury subpoena or court order. No fees or monetary charges shall be levied on the investigative agents or agencies for review of documents noted in the ledger or spreadsheet. The ledger or spreadsheet and its contents shall be retained by the agency that controls entries into such ledger or spreadsheet for a minimum of three years from the earliest entry listed in the ledger or spreadsheet.

(2) The receiving entity shall, upon receipt of a filing or record that has been noted as a suspicious filing or record,

notify the chief law enforcement officer of the county or his or her designee and the prosecutor of the county or his or her designee of the filing's or record's existence. Timely notification shall be made upon receipt of the filing or record. Notification may be accomplished via electronic mail or via paper memorandum.

(3) There shall be no requirement imposed by this section that the agency receiving the filing or record make notification to the person conducting the filing or record that the filing or record has been entered as a logged or noted filing or record.

(4) Reviews to ensure compliance with the provisions of this section shall be the responsibility of any commissioned peace officer. Findings of noncompliance shall be reported to the jurisdictional prosecuting or circuit attorney or his or her designee by any commissioned peace officer who has probable cause to believe that the noncompliance has taken place purposely, knowingly, recklessly, or with criminal negligence, as described under section 562.016.

7. To petition for a judicial review of a filing or record that is believed to be fraudulent, false, misleading, forged, or contains materially false information, a petitioner may file a probable cause statement which delineates the cause to believe that the filing or record is materially false, contains materially false information, is a forgery, is fraudulent, or is misleading. This probable cause statement shall be filed in the associate or circuit court of the county in which the original filing or record was transferred, received, or recorded.

8. A filed petition under this section shall have an

initial hearing date within twenty business days of the petition being filed with the court. A court ruling of "invalid" shall be evidence that the original filing or record was not accurate, true, or correct. A court ruling of "invalid" shall be retained or recorded at the original receiving entity. The receiving entity shall waive all filing or recording fees associated with the filing or recording of the court ruling document in this subsection. This ruling may be forwarded to credit bureaus or other institutions at the request of the petitioner via motion to the applicable court at no additional cost to the petitioner.

9. If a filing or record is deemed invalid, court costs and fees are the responsibility of the party who originally initiated the filing or record. If the filing or record is deemed valid, no court costs or fees, in addition to standard filing fees, shall be assessed.

575.280. 1. A person commits the offense of acceding to corruption if he or she:

(1) Is a judge, juror, special master, referee or arbitrator and knowingly solicits, accepts, or agrees to accept any benefit, direct or indirect, on the representation or understanding that it will influence his or her official action in a judicial proceeding pending in any court or before such official or juror;

(2) Is a witness or prospective witness in any official proceeding and knowingly solicits, accepts, or agrees to accept any benefit, direct or indirect, on the representation or understanding that he or she will disobey a subpoena or other legal process, absent himself or herself, avoid subpoena or other

legal process, withhold evidence, information or documents, or testify falsely.

2. The offense of acceding to corruption under subdivision **[**(2)**]** (1) of subsection 1 of this section **[**is a class A misdemeanor. The offense, when committed under subdivision (1) of subsection 1 of this section,**]** is a class C felony**[**; unless the offense is committed in a felony prosecution, or on the representation or understanding of testifying falsely, in which case it is a class E felony**]**. The offense of acceding to corruption under subdivision (2) of subsection 1 of this section in a felony prosecution or on the representation or understanding of testifying falsely is a class D felony. Otherwise acceding to corruption is a class A misdemeanor.

577.001. As used in this chapter, the following terms mean:

(1) "Aggravated offender", a person who has been found guilty of:

(a) Three or more intoxication-related traffic offenses committed on separate occasions; or

(b) Two or more intoxication-related traffic offenses committed on separate occasions where at least one of the intoxication-related traffic offenses is an offense committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vehicle while intoxicated and another person was injured or killed;

(2) "Aggravated boating offender", a person who has been found guilty of:

(a) Three or more intoxication-related boating offenses; or

(b) Two or more intoxication-related boating offenses committed on separate occasions where at least one of the intoxication-related boating offenses is an offense committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vessel while intoxicated and another person was injured or killed;

(3) "All-terrain vehicle", any motorized vehicle manufactured and used exclusively for off-highway use which is fifty inches or less in width, with an unladen dry weight of one thousand pounds or less, traveling on three, four or more low pressure tires, with a seat designed to be straddled by the operator, or with a seat designed to carry more than one person, and handlebars for steering control;

(4) "Court", any circuit, associate circuit, or municipal court, including traffic court, but not any juvenile court or drug court;

(5) "Chronic offender", a person who has been found guilty of:

(a) Four or more intoxication-related traffic offenses committed on separate occasions; or

(b) Three or more intoxication-related traffic offenses committed on separate occasions where at least one of the intoxication-related traffic offenses is an offense committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vehicle while intoxicated and another person was injured or killed; or

(c) Two or more intoxication-related traffic offenses committed on separate occasions where both intoxication-related traffic offenses were offenses committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vehicle while intoxicated and another person was injured or killed;

(6) "Chronic boating offender", a person who has been found guilty of:

(a) Four or more intoxication-related boating offenses; or

(b) Three or more intoxication-related boating offenses committed on separate occasions where at least one of the intoxication-related boating offenses is an offense committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vessel while intoxicated and another person was injured or killed; or

(c) Two or more intoxication-related boating offenses committed on separate occasions where both intoxication-related boating offenses were offenses committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vessel while intoxicated and another person was injured or killed;

(7) "Continuous alcohol monitoring", automatically testing breath, blood, or transdermal alcohol concentration levels and tampering attempts at least once every hour, regardless of the location of the person who is being monitored, and regularly

transmitting the data. Continuous alcohol monitoring shall be considered an electronic monitoring service under subsection 3 of section 217.690;

(8) "Controlled substance", a drug, substance, or immediate precursor in schedules I to V listed in section 195.017;

(9) "Drive", "driving", "operates" or "operating", **[**means**]** physically driving or operating a vehicle or vessel;

(10) "Flight crew member", the pilot in command, copilots, flight engineers, and flight navigators;

(11) "Habitual offender", a person who has been found guilty of:

(a) Five or more intoxication-related traffic offenses committed on separate occasions; or

(b) Four or more intoxication-related traffic offenses committed on separate occasions where at least one of the intoxication-related traffic offenses is an offense committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vehicle while intoxicated and another person was injured or killed; or

(c) Three or more intoxication-related traffic offenses committed on separate occasions where at least two of the intoxication-related traffic offenses were offenses committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vehicle while intoxicated and another person was injured or killed; **[**or

(d) While driving while intoxicated, the defendant acted

with criminal negligence to:

a. Cause the death of any person not a passenger in the vehicle operated by the defendant, including the death of an individual that results from the defendant's vehicle leaving a highway, as defined by section 301.010, or the highway's right-of-way; or

b. Cause the death of two or more persons; or

c. Cause the death of any person while he or she has a blood alcohol content of at least eighteen-hundredths of one percent by weight of alcohol in such person's blood;**]**

(12) "Habitual boating offender", a person who has been found guilty of:

(a) Five or more intoxication-related boating offenses; or

(b) Four or more intoxication-related boating offenses committed on separate occasions where at least one of the intoxication-related boating offenses is an offense committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vessel while intoxicated and another person was injured or killed; or

(c) Three or more intoxication-related boating offenses committed on separate occasions where at least two of the intoxication-related boating offenses were offenses committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vessel while intoxicated and another person was injured or killed; or

(d) While boating while intoxicated, the defendant acted

with criminal negligence to:

a. Cause the death of any person not a passenger in the vessel operated by the defendant, including the death of an individual that results from the defendant's vessel leaving the water; or

b. Cause the death of two or more persons; or

c. Cause the death of any person while he or she has a blood alcohol content of at least eighteen-hundredths of one percent by weight of alcohol in such person's blood;

(13) "Intoxicated" or "intoxicated condition", when a person is under the influence of alcohol, a controlled substance, or drug, or any combination thereof;

(14) "Intoxication-related boating offense", operating a vessel while intoxicated; boating while intoxicated; operating a vessel with excessive blood alcohol content or an offense in which the defendant was operating a vessel while intoxicated and another person was injured or killed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense;

(15) "Intoxication-related traffic offense", driving while intoxicated, driving with excessive blood alcohol content, driving under the influence of alcohol or drugs in violation of a <u>state law,</u> county or municipal ordinance<u>, any federal offense, or any military offense</u>, or an offense in which the defendant was operating a vehicle while intoxicated and another person was injured or killed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense;

(16) "Law enforcement officer" or "arresting officer", includes the definition of law enforcement officer in section 556.061 and military policemen conducting traffic enforcement operations on a federal military installation under military jurisdiction in the state of Missouri;

(17) "Operate a vessel", to physically control the movement of a vessel in motion under mechanical or sail power in water;

(18) "Persistent offender", a person who has been found guilty of:

(a) Two or more intoxication-related traffic offenses committed on separate occasions; or

(b) One intoxication-related traffic offense committed in violation of any state law, county or municipal ordinance, federal offense, or military offense in which the defendant was operating a vehicle while intoxicated and another person was injured or killed;

(19) "Persistent boating offender", a person who has been found guilty of:

(a) Two or more intoxication-related boating offenses committed on separate occasions; or

(b) One intoxication-related boating offense committed in violation of any state law, county or municipal ordinance, federal offense, or military offense in which the defendant was operating a vessel while intoxicated and another person was injured or killed;

(20) "Prior offender", a person who has been found guilty of one intoxication-related traffic offense, where such prior offense occurred within five years of the occurrence of the

intoxication-related traffic offense for which the person is charged;

(21) "Prior boating offender", a person who has been found guilty of one intoxication-related boating offense, where such prior offense occurred within five years of the occurrence of the intoxication-related boating offense for which the person is charged.

577.010. 1. A person commits the offense of driving while intoxicated if he or she operates a vehicle while in an intoxicated condition.

2. The offense of driving while intoxicated is:

(1) A class B misdemeanor;

(2) A class A misdemeanor if:

(a) The defendant is a prior offender; or

(b) A person less than seventeen years of age is present in the vehicle;

(3) A class E felony if:

(a) The defendant is a persistent offender; or

(b) While driving while intoxicated, the defendant acts with criminal negligence to cause physical injury to another person;

(4) A class D felony if:

(a) The defendant is an aggravated offender;

(b) While driving while intoxicated, the defendant acts with criminal negligence to cause physical injury to a law enforcement officer or emergency personnel; or

(c) While driving while intoxicated, the defendant acts with criminal negligence to cause serious physical injury to

another person;

(5) A class C felony if:

(a) The defendant is a chronic offender;

(b) While driving while intoxicated, the defendant acts with criminal negligence to cause serious physical injury to a law enforcement officer or emergency personnel; or

(c) While driving while intoxicated, the defendant acts with criminal negligence to cause the death of another person;

(6) A class B felony if:

(a) The defendant is a habitual offender; **[**or**]**

(b) While driving while intoxicated, the defendant acts with criminal negligence to cause the death of a law enforcement officer or emergency personnel;

(c) While driving while intoxicated, the defendant acts with criminal negligence to cause the death of any person not a passenger in the vehicle operated by the defendant, including the death of an individual that results from the defendant's vehicle leaving a highway, as defined in section 301.010, or the highway's right-of-way;

(d) While driving while intoxicated, the defendant acts with criminal negligence to cause the death of two or more persons; or

(e) While driving while intoxicated, the defendant acts with criminal negligence to cause the death of any person while he or she has a blood alcohol content of at least eighteen-hundredths of one percent by weight of alcohol in such person's blood;

(7) A class A felony if the defendant **[**is a habitual

offender as a result of being] has previously been found guilty of an [act described under paragraph (d) of subdivision (11) of section 577.001] offense under paragraphs (a) to (e) of subdivision (6) of this subsection and is found guilty of a subsequent violation of such [paragraph] paragraphs.

3. Notwithstanding the provisions of subsection 2 of this section, a person found guilty of the offense of driving while intoxicated as a first offense shall not be granted a suspended imposition of sentence:

(1) Unless such person shall be placed on probation for a minimum of two years; or

(2) In a circuit where a DWI court or docket created under section 478.007 or other court-ordered treatment program is available, and where the offense was committed with fifteen-hundredths of one percent or more by weight of alcohol in such person's blood, unless the individual participates and successfully completes a program under such DWI court or docket or other court-ordered treatment program.

4. If a person is found guilty of a second or subsequent offense of driving while intoxicated, the court may order the person to submit to a period of continuous alcohol monitoring or verifiable breath alcohol testing performed a minimum of four times per day as a condition of probation.

5. If a person is not granted a suspended imposition of sentence for the reasons described in subsection 3 of this section:

(1) If the individual operated the vehicle with fifteen-hundredths to twenty-hundredths of one percent by weight of

alcohol in such person's blood, the required term of imprisonment shall be not less than forty-eight hours;

(2) If the individual operated the vehicle with greater than twenty-hundredths of one percent by weight of alcohol in such person's blood, the required term of imprisonment shall be not less than five days.

6. A person found guilty of the offense of driving while intoxicated:

(1) As a prior offender, persistent offender, aggravated offender, chronic offender, or habitual offender shall not be granted a suspended imposition of sentence or be sentenced to pay a fine in lieu of a term of imprisonment, section 557.011 to the contrary notwithstanding;

(2) As a prior offender shall not be granted parole or probation until he or she has served a minimum of ten days imprisonment:

(a) Unless as a condition of such parole or probation such person performs at least thirty days of community service under the supervision of the court in those jurisdictions which have a recognized program for community service; or

(b) The offender participates in and successfully completes a program established under section 478.007 or other court-ordered treatment program, if available, and as part of either program, the offender performs at least thirty days of community service under the supervision of the court;

(3) As a persistent offender shall not be eligible for parole or probation until he or she has served a minimum of thirty days imprisonment:

(a) Unless as a condition of such parole or probation such person performs at least sixty days of community service under the supervision of the court in those jurisdictions which have a recognized program for community service; or

(b) The offender participates in and successfully completes a program established under section 478.007 or other court-ordered treatment program, if available, and as part of either program, the offender performs at least sixty days of community service under the supervision of the court;

(4) As an aggravated offender shall not be eligible for parole or probation until he or she has served a minimum of sixty days imprisonment;

(5) As a chronic or habitual offender shall not be eligible for parole or probation until he or she has served a minimum of two years imprisonment; and

(6) Any probation or parole granted under this subsection may include a period of continuous alcohol monitoring or verifiable breath alcohol testing performed a minimum of four times per day.

577.011. 1. This section shall be known and may be cited as "Toby's Law".

2. In addition to other terms and conditions imposed on a person who has been found guilty of driving while intoxicated under section 577.010, such person shall complete a victim impact program approved by the court. Attendance in such program shall be in person unless there are extraordinary circumstances preventing in-person attendance. Such person shall be responsible for any charges imposed by the victim impact program.

577.037. 1. Upon the trial of any person for any criminal offense or violations of county or municipal ordinances, or in any license suspension or revocation proceeding pursuant to the provisions of chapter 302, arising out of acts alleged to have been committed by any person while operating a vehicle, vessel, or aircraft, or acting as a flight crew member of any aircraft, while in an intoxicated condition or with an excessive blood alcohol content, the amount of alcohol in the person's blood at the time of the act, as shown by any chemical analysis of the person's blood, breath, saliva, or urine, is admissible in evidence and the provisions of subdivision (5) of section 491.060 shall not prevent the admissibility or introduction of such evidence if otherwise admissible.

2. If a chemical analysis of the defendant's breath, blood, saliva, or urine demonstrates there was eight-hundredths of one percent or more by weight of alcohol in the person's blood, this shall be prima facie evidence that the person was intoxicated at the time the specimen was taken. If a chemical analysis of the defendant's breath, blood, saliva, or urine demonstrates that there was less than eight-hundredths of one percent of alcohol in the defendant's blood, any charge alleging a criminal offense related to the operation of a vehicle, vessel, or aircraft while in an intoxicated condition shall be dismissed with prejudice unless one or more of the following considerations cause the court to find a dismissal unwarranted:

(1) There is evidence that the chemical analysis is unreliable as evidence of the defendant's intoxication at the time of the alleged violation due to the lapse of time between

the alleged violation and the obtaining of the specimen;

(2) There is evidence that the defendant was under the influence of a controlled substance, or drug, or a combination of either or both with or without alcohol; or

(3) There is substantial evidence of intoxication from physical observations of witnesses or admissions of the defendant.

3. Percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred milliliters of blood or grams of alcohol per two hundred ten liters of breath.

4. The foregoing provisions of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether the person was intoxicated.

5. A chemical analysis of a person's breath, blood, saliva or urine, in order to give rise to the presumption or to have the effect provided for in subsection 2 of this section, shall have been performed as provided in sections 577.020 to 577.041 and in accordance with methods and standards approved by the state department of health and senior services.

6. For any criminal offense, violation of a county or municipal ordinance, or in any license suspension or revocation proceeding under the provisions of chapter 302 arising out of acts alleged to have been committed by any person while operating a vehicle, vessel, or aircraft, or acting as a flight crew member of any aircraft, while in an intoxicated condition or with an excessive blood alcohol content occurring on or between the dates of December 30, 2012, and April 4, 2014, notwithstanding any

other provision of law or regulation, a relevant chemical analysis of a person's breath shall be admissible in all proceedings after the effective date of this section if the standard simulator solutions used to verify and calibrate evidential breath analyzers had a vapor concentration within five percent of the following values:

(1) One-tenth of one percent;

(2) Eight-hundredths of one percent; or

(3) Four-hundredths of one percent;

and otherwise were in accordance with methods and standards approved by the department of health and senior services. This provision is a procedural rule and applies to all actions in progress whether commenced before or after the effective date of this section. Such chemical breath analysis shall be admissible in all proceedings after the effective date of this section even if the offense occurred before the effective date of this section.

7. It is the intent of the legislature to reverse, overturn, and abrogate earlier case law interpretations related to the admissibility of chemical breath analyses to include, but not be limited to, holdings in Stiers v. Dir. of Revenue, 477 S.W.3d 611, (Mo. 2016); and Stiers v. Dir. of Revenue, ED 101407, 2015 WL 343310 (Mo.App. E.D. Jan. 27, 2015).

577.060. 1. A person commits the offense of leaving the scene of an accident when:

(1) Being the operator of a vehicle or a vessel involved in an accident resulting in injury or death or damage to property of

another person; and

(2) Having knowledge of such accident he or she leaves the place of the injury, damage or accident without stopping and giving the following information to the other party or to a law enforcement officer, or if no law enforcement officer is in the vicinity, then to the nearest law enforcement agency:

(a) His or her name;

(b) His or her residence, including city and street number;

(c) The registration or license number for his or her vehicle or vessel; and

(d) His or her operator's license number, if any.

2. For the purposes of this section, all law enforcement officers shall have jurisdiction, when invited by an injured person, to enter the premises of any privately owned property for the purpose of investigating an accident and performing all necessary duties regarding such accident.

3. The offense of leaving the scene of an accident is:

(1) A class A misdemeanor; **[**or**]**

(2) A class E felony if:

(a) Physical injury was caused to another party; or

(b) Damage in excess of one thousand dollars was caused to the property of another person; or

(c) The defendant has previously been found guilty of any offense in violation of this section; or committed in another jurisdiction which, if committed in this state, would be a violation of an offense of this section; or

(3) A class D felony if a death has occurred as a result of the accident.

4. A law enforcement officer who investigates or receives information of an accident involving an all-terrain vehicle and also involving the loss of life or serious physical injury shall make a written report of the investigation or information received and such additional facts relating to the accident as may come to his or her knowledge, mail the information to the department of public safety, and keep a record thereof in his or her office.

5. The provisions of this section shall not apply to the operation of all-terrain vehicles when property damage is sustained in sanctioned all-terrain vehicle races, derbies and rallies.

589.664. 1. If an individual is a participant in the Address Confidentiality Program pursuant to section 589.663, no person or entity shall be compelled to disclose the participant's actual address during the discovery phase of or during a proceeding before a court or other tribunal unless the court or tribunal first finds, on the record, that:

(1) There is a reasonable belief that the address is needed to obtain information or evidence without which the investigation, prosecution, or litigation cannot proceed; and

(2) There is no other practicable way of obtaining the information or evidence.

2. The court shall first provide the program participant and the secretary of state notice that address disclosure is sought.

3. The program participant shall have an opportunity to present evidence regarding the potential harm to the safety of

the program participant if the address is disclosed. In determining whether to compel disclosure, the court shall consider whether the potential harm to the safety of the participant is outweighed by the interest in disclosure.

4. Notwithstanding any other provision in law to the contrary, no court shall order an individual who has had his or her application accepted by the secretary to disclose his or her actual address or location of his or her residence without giving the secretary proper notice. The secretary shall have the right to intervene in any civil proceeding in which a court is considering ordering a participant to disclose his or her actual address.

5. Disclosure of a participant's actual address under this section shall be limited under the terms of the order to ensure that the disclosure and dissemination of the actual address will be no wider than necessary for the purposes of the investigation, prosecution, or litigation.

6. Nothing in this section shall be construed to prevent the court or any other tribunal from issuing a protective order to prevent disclosure of information, other than the participant's actual address, that could reasonably lead to the discovery of the program participant's location.

595.045. 1. There is established in the state treasury the "Crime Victims' Compensation Fund". A surcharge of seven dollars and fifty cents shall be assessed as costs in each court proceeding filed in any court in the state in all criminal cases including violations of any county ordinance or any violation of criminal or traffic laws of the state, including an infraction

and violation of a municipal ordinance; except that no such fee shall be collected in any proceeding in any court when the proceeding or the defendant has been dismissed by the court or when costs are to be paid by the state, county, or municipality. A surcharge of seven dollars and fifty cents shall be assessed as costs in a juvenile court proceeding in which a child is found by the court to come within the applicable provisions of subdivision (3) of subsection 1 of section 211.031.

2. Notwithstanding any other provision of law to the contrary, the moneys collected by clerks of the courts pursuant to the provisions of subsection 1 of this section shall be collected and disbursed in accordance with sections 488.010 to 488.020 and shall be payable to the director of the department of revenue.

3. The director of revenue shall deposit annually the amount of two hundred fifty thousand dollars to the state forensic laboratory account administered by the department of public safety to provide financial assistance to defray expenses of crime laboratories if such analytical laboratories are registered with the federal Drug Enforcement Agency or the Missouri department of health and senior services. Subject to appropriations made therefor, such funds shall be distributed by the department of public safety to the crime laboratories serving the courts of this state making analysis of a controlled substance or analysis of blood, breath or urine in relation to a court proceeding.

4. The remaining funds collected under subsection 1 of this section shall be denoted to the payment of an annual

appropriation for the administrative and operational costs of the office for victims of crime and, if a statewide automated crime victim notification system is established pursuant to section 650.310, to the monthly payment of expenditures actually incurred in the operation of such system. Additional remaining funds shall be subject to the following provisions:

(1) On the first of every month, the director of revenue or the director's designee shall determine the balance of the funds in the crime victims' compensation fund available to satisfy the amount of compensation payable pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055;

(2) Beginning on September 1, 2004, and on the first of each month, the director of revenue or the director's designee shall deposit fifty percent of the balance of funds available to the credit of the crime victims' compensation fund and fifty percent to the services to victims' fund established in section 595.100.

5. The director of revenue or such director's designee shall at least monthly report the moneys paid pursuant to this section into the crime victims' compensation fund and the services to victims fund to the department of public safety.

6. The moneys collected by clerks of municipal courts pursuant to subsection 1 of this section shall be collected and disbursed as provided by sections 488.010 to 488.020. Five percent of such moneys shall be payable to the city treasury of the city from which such funds were collected. The remaining ninety-five percent of such moneys shall be payable to the director of revenue. The funds received by the director of

revenue pursuant to this subsection shall be distributed as follows:

(1) On the first of every month, the director of revenue or the director's designee shall determine the balance of the funds in the crime victims' compensation fund available to satisfy the amount of compensation payable pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055;

(2) Beginning on September 1, 2004, and on the first of each month the director of revenue or the director's designee shall deposit fifty percent of the balance of funds available to the credit of the crime victims' compensation fund and fifty percent to the services to victims' fund established in section 595.100.

7. These funds shall be subject to a biennial audit by the Missouri state auditor. Such audit shall include all records associated with crime victims' compensation funds collected, held or disbursed by any state agency.

8. In addition to the moneys collected pursuant to subsection 1 of this section, the court shall enter a judgment in favor of the state of Missouri, payable to the crime victims' compensation fund, of sixty-eight dollars upon a plea of guilty or a finding of guilt for a class A or B felony; forty-six dollars upon a plea of guilty or finding of guilt for a class C **[**or**]**, D, or E felony; and ten dollars upon a plea of guilty or a finding of guilt for any misdemeanor under Missouri law except for those in chapter 252 relating to fish and game, chapter 302 relating to drivers' and commercial drivers' license, chapter 303 relating to motor vehicle financial responsibility, chapter 304

relating to traffic regulations, chapter 306 relating to watercraft regulation and licensing, and chapter 307 relating to vehicle equipment regulations. Any clerk of the court receiving moneys pursuant to such judgments shall collect and disburse such crime victims' compensation judgments in the manner provided by sections 488.010 to 488.020. Such funds shall be payable to the state treasury and deposited to the credit of the crime victims' compensation fund.

9. The clerk of the court processing such funds shall maintain records of all dispositions described in subsection 1 of this section and all dispositions where a judgment has been entered against a defendant in favor of the state of Missouri in accordance with this section; all payments made on judgments for alcohol-related traffic offenses; and any judgment or portion of a judgment entered but not collected. These records shall be subject to audit by the state auditor. The clerk of each court transmitting such funds shall report separately the amount of dollars collected on judgments entered for alcohol-related traffic offenses from other crime victims' compensation collections or services to victims collections.

10. The department of revenue shall maintain records of funds transmitted to the crime victims' compensation fund by each reporting court and collections pursuant to subsection 16 of this section and shall maintain separate records of collection for alcohol-related offenses.

11. The state courts administrator shall include in the annual report required by section 476.350 the circuit court caseloads and the number of crime victims' compensation judgments

entered.

12. All awards made to injured victims under sections 595.010 to 595.105 and all appropriations for administration of sections 595.010 to 595.105, except sections 595.050 and 595.055, shall be made from the crime victims' compensation fund. Any unexpended balance remaining in the crime victims' compensation fund at the end of each biennium shall not be subject to the provision of section 33.080 requiring the transfer of such unexpended balance to the ordinary revenue fund of the state, but shall remain in the crime victims' compensation fund. In the event that there are insufficient funds in the crime victims' compensation fund to pay all claims in full, all claims shall be paid on a pro rata basis. If there are no funds in the crime victims' compensation fund, then no claim shall be paid until funds have again accumulated in the crime victims' compensation fund. When sufficient funds become available from the fund, awards which have not been paid shall be paid in chronological order with the oldest paid first. In the event an award was to be paid in installments and some remaining installments have not been paid due to a lack of funds, then when funds do become available that award shall be paid in full. All such awards on which installments remain due shall be paid in full in chronological order before any other postdated award shall be paid. Any award pursuant to this subsection is specifically not a claim against the state, if it cannot be paid due to a lack of funds in the crime victims' compensation fund.

13. When judgment is entered against a defendant as provided in this section and such sum, or any part thereof,

remains unpaid, there shall be withheld from any disbursement, payment, benefit, compensation, salary, or other transfer of money from the state of Missouri to such defendant an amount equal to the unpaid amount of such judgment. Such amount shall be paid forthwith to the crime victims' compensation fund and satisfaction of such judgment shall be entered on the court record. Under no circumstances shall the general revenue fund be used to reimburse court costs or pay for such judgment. The director of the department of corrections shall have the authority to pay into the crime victims' compensation fund from an offender's compensation or account the amount owed by the offender to the crime victims' compensation fund, provided that the offender has failed to pay the amount owed to the fund prior to entering a correctional facility of the department of corrections.

14. All interest earned as a result of investing funds in the crime victims' compensation fund shall be paid into the crime victims' compensation fund and not into the general revenue of this state.

15. Any person who knowingly makes a fraudulent claim or false statement in connection with any claim hereunder is guilty of a class A misdemeanor.

16. The department may receive gifts and contributions for the benefit of crime victims. Such gifts and contributions shall be credited to the crime victims' compensation fund as used solely for compensating victims under the provisions of sections 595.010 to 595.075.

595.219. 1. In addition to the court's authority to order

a defendant to make restitution for the damage or loss caused by his or her offense as provided in section 559.105, the court may enter a judgment of restitution against the offenders convicted of official misconduct in the first or second degrees pursuant to the provisions of this section.

2. The court may order the defendant to make restitution to:

(1) The victim;

(2) Any governmental entity; or

(3) A third-party payor, including an insurer that has made payment to the victim to compensate the victim for a property loss or a pecuniary loss.

3. Restitution payments to the victim have priority over restitution payments to a third-party payor. If the victim has been compensated for the victim's loss by a third-party payor, the court may order restitution payments to the third-party payor in the amount that the third-party payor compensated the victim.

4. Payment of restitution to a victim under this section has priority over payment of restitution to any governmental entity.

5. A restitution hearing to determine the liability of the defendant shall be held not later than thirty days after final disposition of the case and may be extended by the court for good cause. In the restitution hearing, a written statement or bill for medical, dental, hospital, funeral, or burial expenses shall be prima facie evidence that the amount indicated on the written statement or bill represents a fair and reasonable charge for the services or materials provided. The burden of proving that the

amount indicated on the written statement or bill is not fair and reasonable shall be on the person challenging the fairness and reasonableness of the amount.

6. A judgment of restitution against a defendant may not be entered unless the defendant has been afforded a reasonable opportunity to be heard and to present appropriate evidence in his or her behalf. The defendant shall be advised of his or her right to obtain counsel for representation at the hearing. A hearing under this section may be held as part of a final disposition hearing for the case.

7. The judgment may be enforced in the same manner as enforcing monetary judgments by the prosecuting attorney on behalf of the victim.

8. A judgment of restitution ordered pursuant to this section against a defendant shall not be a bar to a proceeding against the defendant pursuant to section 537.045 or section 8.150 for the balance of the damages not paid pursuant to this section.

650.055. 1. Every individual who:

(1) Is found guilty of a felony or any offense under chapter 566; or

(2) Is seventeen years of age or older and arrested for **[**burglary in the first degree under section 569.160, or burglary in the second degree under section 569.170, or**]** a felony offense **[**under chapter 565, 566, 567, 568, or 573**]**; or

(3) Has been determined to be a sexually violent predator pursuant to sections 632.480 to 632.513; or

(4) Is an individual required to register as a sexual

offender under sections 589.400 to 589.425;

shall have a fingerprint and blood or scientifically accepted biological sample collected for purposes of DNA profiling analysis.

2. Any individual subject to DNA collection and profiling analysis under this section shall provide a DNA sample:

(1) Upon booking at a county jail or detention facility; or

(2) Upon entering or before release from the department of corrections reception and diagnostic centers; or

(3) Upon entering or before release from a county jail or detention facility, state correctional facility, or any other detention facility or institution, whether operated by a private, local, or state agency, or any mental health facility if committed as a sexually violent predator pursuant to sections 632.480 to 632.513; or

(4) When the state accepts a person from another state under any interstate compact, or under any other reciprocal agreement with any county, state, or federal agency, or any other provision of law, whether or not the person is confined or released, the acceptance is conditional on the person providing a DNA sample if the person was found guilty of a felony offense in any other jurisdiction; or

(5) If such individual is under the jurisdiction of the department of corrections. Such jurisdiction includes persons currently incarcerated, persons on probation, as defined in section 217.650, and on parole, as also defined in section 217.650; or

(6) At the time of registering as a sex offender under sections 589.400 to 589.425.

3. The Missouri state highway patrol and department of corrections shall be responsible for ensuring adherence to the law. Any person required to provide a DNA sample pursuant to this section shall be required to provide such sample, without the right of refusal, at a collection site designated by the Missouri state highway patrol and the department of corrections. Authorized personnel collecting or assisting in the collection of samples shall not be liable in any civil or criminal action when the act is performed in a reasonable manner. Such force may be used as necessary to the effectual carrying out and application of such processes and operations. The enforcement of these provisions by the authorities in charge of state correctional institutions and others having custody or jurisdiction over individuals included in subsection 1 of this section which shall not be set aside or reversed is hereby made mandatory. The board of probation or parole shall recommend that an individual on probation or parole who refuses to provide a DNA sample have his or her probation or parole revoked. In the event that a person's DNA sample is not adequate for any reason, the person shall provide another sample for analysis.

4. The procedure and rules for the collection, analysis, storage, expungement, use of DNA database records and privacy concerns shall not conflict with procedures and rules applicable to the Missouri DNA profiling system and the Federal Bureau of Investigation's DNA databank system.

5. Unauthorized use or dissemination of individually

identifiable DNA information in a database for purposes other than criminal justice or law enforcement is a class A misdemeanor.

6. Implementation of sections 650.050 to 650.100 shall be subject to future appropriations to keep Missouri's DNA system compatible with the Federal Bureau of Investigation's DNA databank system.

7. All DNA records and biological materials retained in the DNA profiling system are considered closed records pursuant to chapter 610. All records containing any information held or maintained by any person or by any agency, department, or political subdivision of the state concerning an individual's DNA profile shall be strictly confidential and shall not be disclosed, except to:

(1) Peace officers, as defined in section 590.010, and other employees of law enforcement agencies who need to obtain such records to perform their public duties;

(2) The attorney general or any assistant attorneys general acting on his or her behalf, as defined in chapter 27;

(3) Prosecuting attorneys or circuit attorneys as defined in chapter 56, and their employees who need to obtain such records to perform their public duties;

(4) The individual whose DNA sample has been collected, or his or her attorney; or

(5) Associate circuit judges, circuit judges, judges of the courts of appeals, supreme court judges, and their employees who need to obtain such records to perform their public duties.

8. Any person who obtains records pursuant to the

provisions of this section shall use such records only for investigative and prosecutorial purposes, including but not limited to use at any criminal trial, hearing, or proceeding; or for law enforcement identification purposes, including identification of human remains. Such records shall be considered strictly confidential and shall only be released as authorized by this section.

9. An individual may request expungement of his or her DNA sample and DNA profile through the court issuing the reversal or dismissal. A certified copy of the court order establishing that such conviction has been reversed or guilty plea has been set aside shall be sent to the Missouri state highway patrol crime laboratory. Upon receipt of the court order, the laboratory will determine that the requesting individual has no other qualifying offense as a result of any separate plea or conviction and no other qualifying arrest prior to expungement.

(1) A person whose DNA record or DNA profile has been included in the state DNA database in accordance with this section and sections 650.050, 650.052, and 650.100 may request expungement on the grounds that the conviction has been reversed, or the guilty plea on which the authority for including that person's DNA record or DNA profile was based has been set aside.

(2) Upon receipt of a written request for expungement, a certified copy of the final court order reversing the conviction or setting aside the plea and any other information necessary to ascertain the validity of the request, the Missouri state highway patrol crime laboratory shall expunge all DNA records and identifiable information in the state DNA database pertaining to

the person and destroy the DNA sample of the person, unless the Missouri state highway patrol determines that the person is otherwise obligated to submit a DNA sample. Within thirty days after the receipt of the court order, the Missouri state highway patrol shall notify the individual that it has expunged his or her DNA sample and DNA profile, or the basis for its determination that the person is otherwise obligated to submit a DNA sample.

(3) The Missouri state highway patrol is not required to destroy any item of physical evidence obtained from a DNA sample if evidence relating to another person would thereby be destroyed.

(4) Any identification, warrant, arrest, or evidentiary use of a DNA match derived from the database shall not be excluded or suppressed from evidence, nor shall any conviction be invalidated or reversed or plea set aside due to the failure to expunge or a delay in expunging DNA records.

10. When a DNA sample is taken from an individual pursuant to subdivision (2) of subsection 1 of this section and the prosecutor declines prosecution and notifies the arresting agency of that decision, the arresting agency shall notify the Missouri state highway patrol crime laboratory within ninety days of receiving such notification. Within thirty days of being notified by the arresting agency that the prosecutor has declined prosecution, the Missouri state highway patrol crime laboratory shall determine whether the individual has any other qualifying offenses or arrests that would require a DNA sample to be taken and retained. If the individual has no other qualifying offenses

or arrests, the crime laboratory shall expunge all DNA records in the database taken at the arrest for which the prosecution was declined pertaining to the person and destroy the DNA sample of such person.

11. When a DNA sample is taken of an arrestee for any offense listed under subsection 1 of this section and charges are filed:

(1) If the charges are later withdrawn, the prosecutor shall notify the state highway patrol crime laboratory that such charges have been withdrawn;

(2) If the case is dismissed, the court shall notify the state highway patrol crime laboratory of such dismissal;

(3) If the court finds at the preliminary hearing that there is no probable cause that the defendant committed the offense, the court shall notify the state highway patrol crime laboratory of such finding;

(4) If the defendant is found not guilty, the court shall notify the state highway patrol crime laboratory of such verdict. If the state highway patrol crime laboratory receives notice under this subsection, such crime laboratory shall determine, within thirty days, whether the individual has any other qualifying offenses or arrests that would require a DNA sample to be taken. If the individual has no other qualifying arrests or offenses, the crime laboratory shall expunge all DNA records in the database pertaining to such person and destroy the person's DNA sample.

[475.024. A parent of a minor, by a properly executed power of attorney, may delegate to another individual, for a period not exceeding one year, any of his or her powers regarding care or custody of the

minor child, except his or her power to consent to marriage or adoption of the minor child.**]**