

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill  
2 No. 834, Page 12, Section 217.947, Line 9, by inserting after all of the said section and line the following:  
3

4 "476.055. 1. There is hereby established in the state treasury the "Statewide Court Automation  
5 Fund". All moneys collected pursuant to section 488.027, as well as gifts, contributions, devises, bequests,  
6 and grants received relating to automation of judicial record keeping, and moneys received by the judicial  
7 system for the dissemination of information and sales of publications developed relating to automation of  
8 judicial record keeping, shall be credited to the fund. Moneys credited to this fund may only be used for the  
9 purposes set forth in this section and as appropriated by the general assembly. Any unexpended balance  
10 remaining in the statewide court automation fund at the end of each biennium shall not be subject to the  
11 provisions of section 33.080 requiring the transfer of such unexpended balance to general revenue; except  
12 that, any unexpended balance remaining in the fund on September 1, [~~2023~~] 2028, shall be transferred to  
13 general revenue.

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

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

30 4. Any purchase of computer software or computer hardware that exceeds five thousand dollars shall

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1 be made pursuant to the requirements of the office of administration for lowest and best bid. Such bids shall  
 2 be subject to acceptance by the office of administration. The court automation committee shall determine the  
 3 specifications for such bids.

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

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

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

- 16 (1) The chair of the house budget committee;
- 17 (2) The chair of the senate appropriations committee;
- 18 (3) The chair of the house judiciary committee; and
- 19 (4) The chair of the senate judiciary committee.

20 8. Section 488.027 shall expire on September 1, ~~[2023]~~ 2028. The court automation committee  
 21 established pursuant to this section may continue to function until completion of its duties prescribed by this  
 22 section~~], but shall complete its duties prior to September 1, 2025.~~

23 ~~9. This section shall expire on September 1, 2025]."; and~~

24  
 25 Further amend said bill and page, Section 548.241, Line 10, by inserting after said section and line the  
 26 following:  
 27

28 "556.046. 1. A person may be convicted of an offense included in an offense charged in the  
 29 indictment or information. An offense is so included when:

- 30 (1) It is established by proof of the same or less than all the facts required to establish the
- 31 commission of the offense charged; or
- 32 (2) It is specifically denominated by statute as a lesser degree of the offense charged; or
- 33 (3) It consists of an attempt to commit the offense charged or to commit an offense otherwise
- 34 included therein.

35 2. The court shall not be obligated to charge the jury with respect to an included offense unless there  
 36 is a rational basis for a verdict acquitting the person of the offense charged and convicting him or her of the  
 37 included offense. An offense is charged for purposes of this section if:

- 38 (1) It is in an indictment or information; or
- 39 (2) It is an offense submitted to the jury because there is a rational basis for a verdict acquitting the
- 40 person of the offense charged and convicting the person of the included offense.

1           3. The court shall be obligated to instruct the jury with respect to a particular included offense only if  
 2 the instruction is requested and there is a rational basis in the evidence for acquitting the person of the  
 3 immediately higher included offense and [there is a basis in the evidence for] convicting the person of that  
 4 particular included offense."; and

5  
 6 Further amend said bill, Page 18, Section 559.115, Line 77, by inserting after said section and line the  
 7 following:

8  
 9           "566.010. As used in this chapter and chapter 568, the following terms mean:

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

11           (a) Inflicts serious physical injury on the victim;

12           (b) Displays a deadly weapon or dangerous instrument in a threatening manner;

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

14           (d) Had previously been found guilty of an offense under this chapter or under section 573.200, child  
 15 used in sexual performance; section 573.205, promoting sexual performance by a child; section 573.023,  
 16 sexual exploitation of a minor; section 573.025, promoting child pornography in the first degree; section  
 17 573.035, promoting child pornography in the second degree; section 573.037, possession of child  
 18 pornography; or section 573.040, furnishing pornographic materials to minors; or has previously been found  
 19 guilty of an offense in another jurisdiction which would constitute an offense under this chapter or said  
 20 sections;

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

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

25           a. Ancestor or descendant by blood or adoption;

26           b. Stepchild while the marriage creating that relationship exists;

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

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

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

31           (3) "Deviate sexual intercourse", any act involving the genitals of one person and the hand, mouth,  
 32 tongue, or anus of another person or a sexual act involving the penetration, however slight, of the penis,  
 33 female genitalia, or the anus by a finger, instrument or object done for the purpose of arousing or gratifying  
 34 the sexual desire of any person or for the purpose of terrorizing the victim;

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

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

39           (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, or causing semen, seminal fluid, or other ejaculate to come into contact with another person, 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.

566.086. 1. A person commits the offense of sexual contact with a student if he or she has sexual contact with a student of the school and is:

(1) A teacher, as that term is defined in subdivisions (4), (5), and (7) of section 168.104;

(2) A student teacher; [Ø]

(3) An employee of the school; [Ø]

(4) A volunteer of the school or of an organization working with the school on a project or program who is not a student at the school; [Ø]

(5) An elected or appointed official of the school district; [Ø]

(6) A person employed by an entity that contracts with the school or school district to provide services; or

(7) A coach, assistant coach, director, or other adult with a school-aged team, club, or ensemble, regardless of whether such team, club, or ensemble is connected to a school or scholastic association. For purposes of this subdivision, "school-aged team, club, or ensemble" means any group organized for individual or group competition for the performance of sports activities or any group organized for individual or group presentation for fine or performing arts, by any child under eighteen years of age.

2. For the purposes of this section, "school" shall mean any public or private school in this state serving kindergarten through grade twelve or any school bus used by the school district.

3. The offense of sexual contact with a student is a class E felony.

4. It is not a defense to prosecution for a violation of this section that the student consented to the sexual contact."; and

Further amend said bill, Page 19, Section 589.565, Line 19, by inserting after said section and line the following:

"600.042. 1. The director shall:

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

(2) Submit to the commission, between August fifteenth and September fifteenth of each year, a report which shall include all pertinent data on the operation of the state public defender system, the costs, projected needs, and recommendations for statutory changes. Prior to October fifteenth of each year, the commission shall submit such report along with such recommendations, comments, conclusions, or other pertinent information it chooses to make to the chief justice, the governor, and the general assembly. Such

1 reports shall be a public record, shall be maintained in the office of the state public defender, and shall be  
2 otherwise distributed as the commission shall direct;

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

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

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

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

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

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

20 (9) With the approval of the commission, apply for and accept on behalf of the public defender  
21 system any funds which may be offered or which may become available from government grants, private  
22 gifts, donations or bequests or from any other source. Such moneys shall be deposited in the ~~[state-general~~  
23 ~~revenue]~~ public defender-federal and other fund;

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

27 (11) With the approval and on behalf of the commission, contract with private attorneys for the  
28 collection and enforcement of liens and other judgments owed to the state for services rendered by the state  
29 public defender system.

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

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

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

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

39 (2) Who is detained or charged with a misdemeanor which will probably result in confinement in the

1 county jail upon conviction, including appeals from a conviction in such a case, unless the prosecuting or  
2 circuit attorney has waived a jail sentence;

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

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

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

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

14 5. The director may:

15 (1) Delegate the legal representation of an eligible person to any member of the state bar of  
16 Missouri;

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

19 6. There is hereby created within the state treasury the "Public Defender-Federal and Other Fund",  
20 which shall be funded annually by appropriation and which shall contain moneys received from any other  
21 funds from government grants, private gifts, donations, bequests, or any other source to be used for the  
22 purpose of funding local offices of the office of state public defender. The state treasurer shall be the  
23 custodian of the fund and shall approve disbursements from the fund upon the request of the director of the  
24 office of state public defender. Any interest or other earnings with respect to amounts transferred to the fund  
25 shall be credited to the fund. Notwithstanding the provisions of section 33.080 to the contrary, any  
26 unexpended balances in the fund at the end of any fiscal year shall not be transferred to the general revenue  
27 fund or any other fund."; and

28  
29 Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.