

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 179
103RD GENERAL ASSEMBLY

0154H.02C

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 477.650 and 536.085, RSMo, and to enact in lieu thereof two new sections relating to fees and expenses in civil actions or agency proceedings.

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

Section A. Sections 477.650 and 536.085, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 477.650 and 536.085, to read as follows:

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

9 2. Funds in the basic civil legal services fund shall be allocated annually and
10 expended to provide legal representation to eligible low-income persons in the state in civil
11 matters. Moneys, funds, or payments paid to the credit of the basic civil legal services fund
12 shall, at least as often as annually, be distributed to the legal services organizations in this
13 state which qualify for Federal Legal Services Corporation funding. The funds so distributed
14 shall be used by legal services organizations in this state solely to provide legal services to
15 eligible low-income persons as such persons are defined by the Federal Legal Services
16 Corporation's Income Eligibility Guidelines. Fund money shall be subject to all restrictions
17 imposed on such legal services organizations by law. Funds shall be allocated to the
18 programs according to the funding formula employed by the Federal Legal Services

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

19 Corporation for the distribution of funds to this state. Notwithstanding the provisions of
20 section 33.080, any balance remaining in the basic civil legal services fund at the end of any
21 year shall not be transferred to the state's general revenue fund. Moneys in the basic civil
22 legal services fund shall not be used to pay any portion of a refund mandated by Article X,
23 Section ~~[45]~~ **18** of the Missouri Constitution. State legal services programs shall represent
24 individuals to secure lawful state benefits, but shall not sue the state, its agencies, or its
25 officials, with any state funds.

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

31 4. The Missouri supreme court, or a person or organization designated by the court, is
32 the administrator and shall administer the fund in such manner as determined by the Missouri
33 supreme court, including in accordance with any rules and policies adopted by the Missouri
34 supreme court for such purpose. Moneys from the fund shall be used to pay for the collection
35 of the fee and the implementation and administration of the fund.

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

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

45 ~~[7. The provisions of this section shall expire on December 31, 2025.]~~

536.085. As used in section 536.087, the following terms mean:

2 (1) "Agency proceeding", an adversary proceeding in a contested case pursuant to this
3 chapter in which the state is represented by counsel, but does not include proceedings for
4 determining the eligibility or entitlement of an individual to a monetary benefit or its
5 equivalent, child custody proceedings, eminent domain proceedings, driver's license
6 proceedings, vehicle registration proceedings, proceedings to establish or fix a rate, or
7 proceedings before the state tax commission;

8 (2) "Party":

9 (a) An individual whose net worth did not exceed two million dollars at the time the
10 civil action or agency proceeding was initiated; or

11 (b) Any owner of an unincorporated business or any partnership, corporation,
12 association, unit of local government or organization, the net worth of which did not exceed
13 seven million dollars at the time the civil action or agency proceeding was initiated, and
14 which had not more than five hundred employees at the time the civil action or agency
15 proceeding was initiated;

16 (3) "Prevails", obtains a favorable order, decision, judgment, or dismissal in a civil
17 action or agency proceeding;

18 (4) "Reasonable fees and expenses" includes the reasonable expenses of expert
19 witnesses, the reasonable cost of any study, analysis, engineering report, test, or project which
20 is found by the court or agency to be necessary for the preparation of the party's case, and
21 reasonable attorney or agent fees. The amount of fees awarded as reasonable fees and
22 expenses shall be based upon prevailing market rates for the kind and quality of the services
23 furnished, except that no expert witness shall be compensated at a rate in excess of the highest
24 rate of compensation for expert witnesses paid by the state in the type of civil action or
25 agency proceeding~~], and attorney fees shall not be awarded in excess of seventy-five dollars~~
26 ~~per hour unless the court determines that a special factor, such as the limited availability of~~
27 ~~qualified attorneys for the proceedings involved, justifies a higher fee];~~

28 (5) "State", the state of Missouri, its officers and its agencies, but shall not include
29 political subdivisions of the state.

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