

SECOND REGULAR SESSION

HOUSE BILL NO. 2505

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SUTHERLAND.

Read 1st time March 31, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

5589L.011

AN ACT

To repeal sections 192.735, 192.737, 192.739, 192.742, 192.745, 192.935, 199.001, 199.003, 199.007, 199.009, 199.010, 199.029, 199.031, 199.037, 199.039, 199.041, 199.043, 199.051, 256.030, 256.040, 256.060, 256.110, 256.410, 256.420, 256.425, 256.603, 256.621, 259.010, 259.030, 278.070, 301.020, 302.171, 304.028, 384.025, 384.031, 384.051, 384.057, 384.062, 595.010, 595.015, 595.020, 595.025, 595.027, 595.030, 595.035, 595.037, 595.040, 595.045, and 595.060, RSMo, and to enact in lieu thereof forty-eight new sections relating to state agency reorganizations, with penalty provisions.

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

Section A. Sections 192.735, 192.737, 192.739, 192.742, 192.745, 192.935, 199.001, 2 199.003, 199.007, 199.009, 199.010, 199.029, 199.031, 199.037, 199.039, 199.041, 199.043, 3 199.051, 256.030, 256.040, 256.060, 256.110, 256.410, 256.420, 256.425, 256.603, 256.621, 4 259.010, 259.030, 278.070, 301.020, 302.171, 304.028, 384.025, 384.031, 384.051, 384.057, 5 384.062, 595.010, 595.015, 595.020, 595.025, 595.027, 595.030, 595.035, 595.037, 595.040, 6 595.045, and 595.060, RSMo, are repealed and forty-eight new sections enacted in lieu thereof, 7 to be known as sections 192.735, 192.737, 192.739, 192.742, 192.745, 199.001, 199.003, 8 199.007, 199.009, 199.010, 199.029, 199.031, 199.037, 199.039, 199.041, 199.043, 199.051, 9 209.015, 256.030, 256.040, 256.060, 256.110, 256.410, 256.420, 256.425, 256.603, 256.621, 10 259.010, 259.030, 278.070, 301.020, 302.171, 304.028, 384.025, 384.051, 384.057, 384.062, 11 595.010, 595.015, 595.020, 595.025, 595.027, 595.030, 595.035, 595.037, 595.040, 595.045, and 12 595.060, to read as follows:

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.

192.735. As used in sections 192.735 to 192.745, unless the context clearly indicates otherwise, the following terms shall mean:

(1) ["Department", the department of health and senior services;

(2) "[Head] **Brain** injury" or "traumatic [head] **brain** injury", a sudden insult or damage to the brain or its coverings, not of a degenerative nature. Such insult or damage may produce an altered state of consciousness and may result in a decrease of one or more of the following: mental, cognitive, behavioral or physical functioning resulting in partial or total disability. Cerebral vascular accidents, aneurisms and congenital deficits are specifically excluded from this definition;

(2) "**Department**", the department of health and senior services;

(3) "Spinal cord injury", an injury that occurs as a result of trauma, which may involve spinal vertebral fracture, and where the injured person suffers two or more of the following effects either immediately or within forty-eight hours of injury:

(a) Effects on the sensory system including numbness, tingling or loss of sensation in the body or in one or more extremities;

(b) Effects on the motor system including weakness or paralysis in one or more extremities;

(c) Effects on the visceral system including bowel or bladder dysfunction or hypotension.

192.737. 1. The department of health and senior services shall establish and maintain an information registry and reporting system for the purpose of data collection and needs assessment of head and spinal cord injured persons in this state.

2. Reports of traumatic [head] **brain** and spinal cord injuries shall be filed with the department by a treating physician or [his] **such physician's** designee within seven days of identification. The attending physician of any patient with traumatic [head] **brain** or spinal cord injury who is in the hospital shall provide in writing to the chief administrative officer the information required to be reported by this section. The chief administrative officer of the hospital shall then have the duty to submit the required reports.

3. Reporting forms and the manner in which the information is to be reported shall be provided by the department. Such reports shall include, but shall not be limited to, the following information: name, age, and residence of the injured person, the date and cause of the injury, the initial diagnosis and such other information as required by the department.

192.739. 1. All reports and records made pursuant to sections 192.735 to 192.744 and maintained by the department and other appropriate persons, officials and institutions pursuant to sections 192.735 to 192.744 shall be confidential. Information shall not be made available to any individual or institution except to:

(1) Appropriate staff of the department;

6 (2) Any person engaged in a bona fide research project, with the permission of the
7 director of the department, except that no information identifying the subjects of the reports or
8 the reporters shall be made available to researchers unless the department requests and receives
9 consent for such release pursuant to the provisions of this section;

10 (3) The Missouri [head] **brain** injury advisory council, except that no information
11 identifying the subjects of the reports or the reporters shall be made available to the council
12 unless consent for release is requested and received pursuant to the provisions of this section.
13 Only information pertaining to [head] **brain** injuries as defined in section 192.735 shall be
14 released to the council.

15 2. The department shall not reveal the identity of a patient, a reporting physician or
16 hospital, except that the identity of the patient may be released upon written consent of the
17 patient, parent or guardian, the identity of the physician may be released upon written consent
18 of the physician, and the identity of the hospital may be released upon written consent of the
19 hospital.

20 3. The department shall request consent for release from a patient, a reporting physician
21 or hospital only upon a showing by the applicant for such release that obtaining the identities of
22 certain patients, physicians or hospitals is necessary for his **or her** research.

23 4. The department shall at least annually compile a report of the data accumulated
24 through the reporting system established under section 192.737 and shall submit such data
25 relating to [head] **brain** injuries as defined in section 192.735 and in accordance with
26 confidentiality restrictions established pursuant to sections 192.735 to 192.744 to the director of
27 the Missouri [head] **brain** injury advisory council.

192.742. The department, in consultation with the Missouri [head] **brain** injury advisory
2 council, shall promulgate rules and regulations necessary to carry out the provisions of sections
3 192.735 to 192.744, pursuant to the provisions of section 192.006 and chapter 536, RSMo.

192.745. 1. The "Missouri [Head] **Brain** Injury Advisory Council" [is hereby
2 established] as created by executive order of the governor on March 5, 1985, **is hereby**
3 **transferred to the department of health and senior services in accordance with executive**
4 **order 05-09 issued on February 5, 2005**. The council shall consist of twenty-five members.
5 The members of the council that are serving on [August 13, 1986] **February 5, 2005**, shall
6 continue [serving on the following basis: the two members of the council who are members of
7 the house of representatives and appointed by the speaker of the house of representatives shall
8 serve for the remainder of their terms; the two members of the council who are members of the
9 senate appointed by the president pro tempore of the senate shall serve for the remainder of their
10 terms; and the remaining twenty-one members shall determine by lot which seven are to have
11 a one-year term, which seven are to have a two-year term, and which seven are to have a

12 three-year term] **to fulfill their current terms. Through attrition, the council shall decrease**
13 **from the present twenty-five members to eighteen members.** Thereafter, the successors to
14 each of these [twenty-one] members shall **be appointed by the director of the department of**
15 **health and senior services to** serve a three-year term and [until the member's successor is
16 appointed by the governor with the advice and consent of the senate. In addition, two members
17 who are members of the house of representatives shall be appointed by the speaker of the house
18 and two members who are members of the senate shall be appointed by the president pro tempore
19 of the senate. The members appointed by the governor shall represent] **shall be appointed on**
20 **the following basis: four** people with [head] **brain** injuries[,] **or** relatives of persons with
21 [head] **brain** injuries, [proprietary schools as defined in section 173.600, RSMo,] **and fourteen**
22 **others from** professional groups, health institutions, [or] **community groups, and** private
23 industry [and state agencies which administer programs regarding mental health, education,
24 public health, public safety, insurance, and Medicaid. The appointment of individuals
25 representing state agencies shall be conditioned on their continued employment with their
26 respective agencies]. **In addition to the eighteen council members, individuals representing**
27 **state agencies with services that impact brain injury survivors and their families shall**
28 **participate on the council in an ex officio nonvoting capacity. Such individuals shall be**
29 **appointed by the respective agency.**

30 2. The Missouri [head] **brain** injury advisory council is assigned to the [division of
31 general services in the office of administration] **department of health and senior services.** The
32 [office of administration] **department** shall submit estimates of requirements for appropriations
33 on behalf of the council for the necessary staff and expenses to carry out the duties and
34 responsibilities assigned by the council. [Such staff shall consist of a director and other support
35 staff.]

36 3. Meetings **of the council** shall be held at least [every ninety days] **four times a year**
37 or at the call of the council chairperson, who shall be elected by the council. **Subcommittees**
38 **may meet on an as-needed basis.**

39 4. [Each member shall, subject to appropriations, be reimbursed for reasonable and
40 necessary expenses actually incurred in the performance of the member's official duties.]
41 **Members of the council shall not receive any compensation for their services, but they**
42 **shall, subject to appropriations, be reimbursed for actual and necessary expenses incurred**
43 **in the performance of their duties from funds appropriated for such purpose.**

44 5. The council shall adopt written procedures to govern its activities. [Staff and
45 consultants shall be provided for the council from appropriations requested by the commissioner
46 of the office of administration for such purpose.]

47 6. The council, **under the direction of the department**, shall make recommendations
48 to the [governor] **director of the department of health and senior services** for developing and
49 administering a state plan to provide services for [head] **brain** injured persons.

50 7. No member of the council may participate in or seek to influence a decision or vote
51 of the council if the member would be directly involved with the matter or if the member would
52 derive income from it. A violation of the prohibition contained herein shall be grounds for a
53 person to be removed as a member of the council by the [governor] **director of the department**
54 **of health and senior services**.

55 8. The council shall be advisory and shall:

56 (1) Promote meetings and programs for the discussion of reducing the debilitating effects
57 of [head] **brain** injuries and disseminate information in cooperation with any other department,
58 agency or entity on the prevention, evaluation, care, treatment and rehabilitation of persons
59 affected by [head] **brain** injuries;

60 (2) Study and review current prevention, evaluation, care, treatment and rehabilitation
61 technologies and recommend appropriate preparation, training, retraining and distribution of
62 manpower and resources in the provision of services to [head-injured] **brain-injured** persons
63 through private and public residential facilities, day programs and other specialized services;

64 (3) Recommend [what] specific methods, means and procedures [should be adopted] to
65 improve and upgrade the state's service delivery system for [head-injured] **brain-injured** citizens
66 of this state;

67 (4) Participate in developing and disseminating criteria and standards which may be
68 required for future funding or licensing of facilities, day programs and other specialized services
69 for [head-injured] **brain-injured** persons in this state;

70 (5) Report annually to the [commissioner of administration, the governor, and the
71 general assembly] **director of the department of health and senior services** on its activities,
72 and on the results of its studies and the recommendations of the council.

73 9. The [office of administration] **department of health and senior services** may accept
74 on behalf of the council federal funds, gifts and donations from individuals, private organizations
75 and foundations, and any other funds that may become available.

199.001. As used in sections 199.001 to 199.055, the following terms mean:

2 (1) ["Division", the division of injury prevention, head injury rehabilitation and local
3 health services of the department of health and senior services;

4 (2) "[Head] **Brain** injury" includes [head] **brain** injury[,] **and** traumatic [head] **brain**
5 injury[, and spinal cord injury] as defined in section 192.735, RSMo;

6 (2) "**Department**", **the adult head injury program within the department of health**
7 **and senior services**;

8 (3) "Injury or trauma", any unintentional or intentional damage to the body resulting
9 from acute exposure to thermal, mechanical, electrical, or chemical energy or from the absence
10 of such essentials as heat or oxygen;

11 (4) "Rehabilitation", a comprehensive series of interventions for physical, medical,
12 cognitive and psychological disabilities designed to restore a person to his maximum functional
13 potential.

199.003. 1. The ["Division of Injury Prevention, Head Injury Rehabilitation and Local
2 Health Services" is hereby created and shall be a division of the department of health and senior
3 services. The division] **department** shall have the responsibility, **subject to appropriations**,
4 of ensuring that injury prevention and [head] **brain** injury rehabilitation evaluation, [case
5 management] **service coordination**, treatment, rehabilitation, and community support services
6 are accessible, wherever possible. [The division shall have and exercise supervision of division
7 rehabilitation facilities, residential programs and specialized services operated by the division
8 and oversight of facilities, programs and services funded by the division. The division may also
9 plan for prevention, treatment, rehabilitation and care, including hospice, for persons with other
10 diseases as determined by the general assembly by appropriations. The division shall also have
11 responsibilities for the support, development, and coordination of local health services.]

12 2. The powers, functions and duties of the [division] **department** shall include the
13 following:

14 (1) [Provision of funds for] **Planning and implementing**, in cooperation with the
15 Missouri [head] **brain** injury advisory council [and implementation of] , accessible programs to
16 [rehabilitate and care for] **promote rehabilitation and community reintegration of** persons
17 with [head injuries, injury prevention and research] **brain injuries**;

18 (2) Provision of technical assistance and training to community-based programs [and
19 assistance and cooperation to programs of political subdivisions designed to assist in planning
20 and implementing quality services] **assisting persons with brain injuries**;

21 (3) Assurance of [program] quality [in compliance with such appropriate standards for
22 residential facilities, day programs, and specialized programs as may be established by the
23 division] **for brain injury services funded by the department**;

24 (4) Sponsorship and encouragement of research into the causes, effects, prevention,
25 treatment and rehabilitation of injuries and appropriateness and cost and benefit effectiveness
26 of [head] **brain** injury rehabilitation, residential programs and specialized services;

27 (5) Provision of public information relating to injury prevention and [head] **brain** injury
28 treatment and rehabilitation;

29 (6) Cooperation with nonstate governmental agencies and [the] private sector [in
30 establishing, conducting, integrating and coordinating] programs and projects relating to injury
31 prevention and [head] **brain** injury treatment and rehabilitation;

32 (7) [Review and oversight of those portions of the department's annual budget which are
33 directed for injury prevention and head injury services;

34 (8) Encouragement of the utilization, support, assistance and dedication of volunteers
35 to assist persons affected by head injuries to be accepted and integrated into normal community
36 activities;

37 (9) Support, development, and coordination of local health services, which shall include
38 but shall not be limited to:

39 (a) Professional resources and staff development;

40 (b) Services assessment and coordination;

41 (c) Standards development, implementation and quality assurance;

42 (d) Provision of basic public health services in areas not served by local public health
43 agencies;

44 (e) Fiscal resources and management;

45 (f) Technical assistance; and

46 (g) Assistance with public health problems, emergencies and conditions.] **Receiving
47 federal grants and aids for injury prevention and for persons with brain injuries and brain
48 injury rehabilitation under the terms of the grants and aids and administering or paying
49 them out. The director shall approve such applications for federal assistance administered
50 through the department as may be considered advisable in consultation with the Missouri
51 brain injury advisory council;**

52 (8) **Promulgating rules under this section as necessary to prescribe policies or
53 standards that affect charging and funding of adult brain injury rehabilitation services.
54 The rules applicable to each program or service operated or funded by the department
55 shall be available for public inspection and review at such program or service. The rules
56 and policies shall be compatible with and appropriate to the program mission, population
57 served, size, type of service, and other reasonable classifications;**

58 (9) **Promulgating reasonable rules relative to the implementation of participant
59 rights described in sections 199.001 to 199.051;**

60 (10) **Promulgating rules setting forth a reasonable standard means test that shall
61 be applied to all programs and services funded by the department in determining eligibility
62 for such services.**

63 **3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,
64 that is created under the authority delegated in this section shall become effective only if**

65 it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
66 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
67 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,
68 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
69 held unconstitutional, then the grant of rulemaking authority and any rule proposed or
70 adopted after August 28, 2008, shall be invalid and void.

199.007. The Missouri [head] **brain** injury advisory council, created by section 192.745,
2 RSMo, shall act as the advisory body to the [division and the division] **department and the**
3 **department** director. Any power or function of the [division] **department** requiring planning
4 activities shall be undertaken with the direct input and cooperation of the advisory council. The
5 [division] **department** shall not undertake or duplicate any activity or function of the council
6 under the provisions of section 192.745, RSMo.

199.009. 1. The [division] **department** may provide injury prevention, and [head] **brain**
2 injury evaluation, care, treatment, rehabilitation and such related services directly or through
3 contracts from private and public vendors in this state, the quality of the services being equal,
4 appropriate and consistent with professional advice in the least restrictive environment and as
5 close to an individual's home community as possible, with funds appropriated for this purpose.
6
7 2. If it is determined through a comprehensive evaluation that a person [is suffering from
7 a head] **has a traumatic brain** injury so as to require the coordination of provision of services,
8 including other state governmental agencies, nongovernmental and the private sector, and if such
9 person, such person's parent, if the person is a minor, or legal guardian, so requests, the [division]
10 **department** shall, within the limits of available resources and subject to relevant federal and
11 state laws, secure a comprehensive program of any necessary services for such person. Such
12 services [may include, but need not be limited to, the following:

- 13 (1) Assessment and evaluation;
- 14 (2) Case management;
- 15 (3) Counseling;
- 16 (4) Respite care;
- 17 (5) Recreation;
- 18 (6) Rehabilitation;
- 19 (7) Cognitive retraining;
- 20 (8) Prevocational rehabilitation;
- 21 (9) Residential care;
- 22 (10) Homemaker services;
- 23 (11) Day activity programs;
- 24 (12) Supported living;

25 (13) Referral to appropriate services;

26 (14) Transportation;

27 (15) Supported work] , **if provided by the department, shall be directed toward**
28 **preparation for education or vocational achievement, independent living, and community**
29 **participation. Long-term needs shall be identified and efforts made to link participants**
30 **with appropriate resources.**

31 3. In securing the comprehensive program of services, the [division] **department** shall
32 involve the [patient, his] **participant, the participant's** family or [his] **the participant's** legal
33 guardian in decisions affecting [his] **the participant's** care, rehabilitation, services or referral.
34 The quality of the services being equal, appropriate and consistent with professional advice,
35 services shall be offered in the least restrictive environment and as close to an individual's home
36 community as possible.

37 **4. In accordance with state and federal law, no service or program operated or**
38 **funded by the department shall deny admission or other services to any person because of**
39 **such person's race, sex, creed, marital status, national origin, handicap, or age.**

199.010. The curators of the University of Missouri shall provide for the care of persons
2 needing [head] **brain** injury and other rehabilitation and further, for the treatment and
3 commitment of persons having tuberculosis subject to appropriation by the general assembly.

199.029. 1. The [division] **department** shall promulgate rules under the provisions of
2 this section and chapter 536, RSMo, as necessary to prescribe policies or standards which affect
3 charging and funding of residential care rehabilitation programs and specialized services for
4 persons with [head] **brain** injuries available to the public. The rules applicable to each facility,
5 program or service operated or funded by the [division] **department** shall be available for public
6 inspection and review at such facility, program or service. These rules shall not apply to
7 facilities, programs or services operated or provided by curators of the University of Missouri.

8 2. The rules, operating regulations and facility policies shall be compatible with and
9 appropriate to the facility or program mission, population served, size, type of service and other
10 reasonable classifications. No rule or portion of a rule promulgated under the authority of this
11 chapter shall become effective unless it has been promulgated pursuant to the provisions of
12 section 536.024, RSMo.

199.031. 1. The [division] **department** may receive federal grants and aids for injury
2 prevention and for persons with [head] **brain** injuries and [head] **brain** injury rehabilitation
3 under the terms of the grants and aids and administer or pay them out subject to the provisions
4 attached.

5 2. The director shall approve such applications for federal assistance administered
6 through the [division] **department** as may be considered advisable after consultation with the
7 Missouri [head] **brain** injury advisory council.

199.037. The director of the [division] **department** shall promulgate reasonable rules
2 relative to the implementation of patient rights described in sections 199.001 to 199.055. These
3 rules shall not apply to facilities, programs or services operated or provided by the curators of
4 the University of Missouri.

199.039. The director of the [division] **department** shall promulgate rules setting forth
2 a reasonable standard means test which shall be applied to all facilities, programs and services
3 operated or funded by the [division] **department** in determining the amount to be charged to
4 persons receiving services. Notwithstanding other provisions of sections 199.001 to 199.055,
5 the department shall accept funds from federal reimbursement, third-party reimbursement,
6 private pay or other funding sources.

199.041. 1. Any probate division of the circuit court having knowledge of the existence
2 of an estate of a patient receiving services from residential facilities or other programs operated
3 or funded by the [division] **department** shall promptly notify the director of the nature and
4 extent of the estate and the identity of the attorney of record and conservator. The director shall
5 then apply the standard means test contained in the rules of the [division] **department** to
6 determine if the estate shall be charged for services rendered by the [division] **department**.

7 2. If the director determines that the estate should be charged for the evaluation, care,
8 treatment, rehabilitation or room and board provided or funded by the [division] **department**,
9 and notifies the conservator, the conservator shall pay the charges. If the conservator fails to pay
10 for the charges, after reasonable delay, the head of the [division] **department**, residential facility
11 or day program may discharge the patient.

12 3. The decision of the director shall be final, and appeal may be made to the circuit court
13 of Cole County or the county where the person responsible for payment resides in the manner
14 provided by chapter 536, RSMo. The director shall notify the conservator and the supervising
15 court of such failure to pay for services rendered by a facility or program operated or funded by
16 the [division] **department** at least thirty days before the patient is discharged. If the conservator
17 appeals the decision of the director, the patient shall remain in the facility or program pending
18 final disposition of the appeal.

199.043. In accordance with state and federal law, no residential facility, day program
2 or specialized service operated or funded by the [division] **department** shall deny admission or
3 other services to any person because of [his] **such person's** race, sex, creed, marital status,
4 national origin, handicap or age.

199.051. The [division] **department** may inspect any facility or program at any time if
2 a contract has been issued or an application for a contract has been filed.

[192.935.] **209.015.** 1. There is hereby created in the state treasury the "Blindness
2 Education, Screening and Treatment Program Fund". The fund shall consist of moneys donated
3 pursuant to subsection 7 of section 301.020, RSMo, and subsection 3 of section 302.171, RSMo.
4 Unexpended balances in the fund at the end of any fiscal year shall not be transferred to the
5 general revenue fund or any other fund, the provisions of section 33.080, RSMo, to the contrary
6 notwithstanding.

7 2. Subject to the availability of funds in the blindness education, screening and treatment
8 program fund, the department shall develop a blindness education, screening and treatment
9 program to provide blindness prevention education and to provide screening and treatment for
10 persons who do not have adequate coverage for such services under a health benefit plan.

11 3. The program shall provide for:

12 (1) Public education about blindness and other eye conditions;

13 (2) Screenings and eye examinations to identify conditions that may cause blindness;

14 (3) Treatment procedures necessary to prevent blindness; and

15 (4) Any additional costs for vision examinations under section 167.195, RSMo, that are
16 not covered by existing public **or private** health insurance. Subject to appropriations, moneys
17 from the fund shall be used to pay for those additional costs, provided that the costs do not
18 exceed ninety-nine thousand dollars per year. Payment from the fund for vision examinations
19 under section 167.195, RSMo, shall not exceed the allowable state Medicaid reimbursement
20 amount for vision examinations.

21 4. The department may contract for program development with any department-approved
22 nonprofit organization dealing with regional and community blindness education, eye donor and
23 vision treatment services.

24 5. The department may adopt rules to prescribe eligibility requirements for the program.

25 6. [No rule or portion of a rule promulgated pursuant to the authority of this section shall
26 become effective unless it has been promulgated pursuant to the provisions of chapter 536,
27 RSMo.] **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
28 is created under the authority delegated in this section shall become effective only if it
29 complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
30 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
31 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,
32 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
33 held unconstitutional, then the grant of rulemaking authority and any rule proposed or
34 adopted after August 28, 2008, shall be invalid and void.**

256.030. The governor shall have general superintending control of the division of
2 [geological survey and water resources] **geology and land survey**, with power to remove the
3 state geologist for cause, and to appoint his **or her** successor. The control, direction, and
4 management of all assistants and other employees shall be the responsibility of the state
5 geologist.

256.040. Before entering upon the duties of his **or her** office the state geologist shall
2 take the usual oath [to faithfully demean himself in] **of** office and perform all the duties required
3 of him by law. The state geologist and all employees of the division shall abstain from all
4 private or personal consulting activities for themselves or others within the state while employed
5 in the division of [geological survey and water resources] **geology and land survey**.

256.060. The [state geologist] **director** is authorized to make a survey of the water
2 resources of the state, including a survey of underground water supplies and the chemical
3 composition of such waters. Gauging stations shall be established and maintained, and such
4 other field and laboratory work shall be done as may be deemed necessary.

256.110. The work of the division of [geological survey and water resources] **geology**
2 **and land survey** may be done in cooperation with federal agencies and other state agencies. The
3 state geologist shall be authorized to file formal cooperative agreements with federal agencies.
4 The progress of cooperative programs shall be included in the report of the activities of the
5 division.

256.410. 1. No major water user shall withdraw or divert water from any water source
2 without filing an official registration document with the [division] **department**. The registration
3 document shall set forth:
4 (1) The name and mailing address of the applicant;
5 (2) The name, if any, and location of the water source;
6 (3) The type of water source (such as well, lake or stream);
7 (4) The point in the water source from which it is proposed to withdraw or divert the
8 water;
9 (5) The name, location, and acreage of the lands or other application to which such water
10 is to be diverted;
11 (6) The location and description of the water well, canal, tunnel or pipes and other works
12 or equipment through which the water is to be withdrawn or diverted;
13 (7) The amount in gallons of water withdrawn or diverted on an average day of
14 operation, and the number of days and the months during the preceding year, when water was
15 diverted;
16 (8) The total amount in gallons withdrawn or diverted during the preceding year, and the
17 periods of time when such diversion is scheduled during the current year. The foregoing

18 requirements of this subsection shall not apply to water being pumped from mines and quarries
19 and such water user shall only be required to set forth the quantity pumped from the mine and
20 quarry at each point where it is pumped to the point to discharge and only the name of the stream
21 into which any of the discharge is permitted to flow.

22 2. Withdrawal or diversion of water by major users may continue during the first
23 calendar year after September 28, 1983, or after the initial date of their operation, at which time
24 a registration document must be filed. The filing period shall extend from January first through
25 March thirty-first. Withdrawal or diversion may continue during the filing period. Location data
26 shall be given in terms of section, township and range.

256.420. The [state geologist or his] **director or the director's** authorized agent may
2 enter upon the property of any major water user with permission. If permission is not granted,
3 the department may request a court order for the purpose of inspecting any water source or
4 diversion project to determine water levels, quantity of water withdrawn or diverted and
5 consumed.

256.425. The [division] **department** shall compile all information contained in the
2 registration document and shall analyze such information on a periodic basis to assist in the
3 determination of the water usage and water needs of this state. Not more than three persons shall
4 be employed to carry out the provisions of sections 71.287, RSMo, and 256.400 to 256.430.

256.603. As used in sections 256.600 to 256.640, the following terms mean:

2 (1) "Abandoned well", a well shall be deemed abandoned which is in such a state of
3 disrepair that continued use for the purpose of thermal recovery or obtaining groundwater is
4 impractical and which has not been in use for a period of two years or more. The term
5 "abandoned well" includes a test hole or a monitoring well which was drilled in the exploration
6 for minerals, or for geological, water quality or hydroponic data from the time that it is no longer
7 used for exploratory purposes and that has not been plugged in accordance with rules and
8 regulations pursuant to sections 256.600 to 256.640;

9 (2) "Board", the body created in section 256.605;

10 (3) "Certification report", a form to be sent to the division upon completion of any well
11 which shows the location, static water level, total depth, initial pumpage, hole size, casing size
12 and length, and name of well owner;

13 (4) "Division", the division of geology and land survey, **or any other division within**
14 **the department of natural resources to which the director assigns the duties of**
15 **administering sections 256.600 to 256.640;**

16 (5) "Driller's log", a record accurately kept at the time of drilling showing the depth,
17 thickness, character of the different strata penetrated, location of water-bearing strata, depth, size

18 and character of casing installed, together with any other data or information required on the
19 certification report forms;

20 (6) "Examination", an assessment of professional competency administered to
21 applicants;

22 (7) "Heat pump installation contractor", any person, including owner, operator or drilling
23 supervisor who engages for compensation in the drilling, boring, coring, or construction of any
24 well in the state for extracting thermal energy;

25 (8) "Monitoring well installation contractor", any person, including owner, operator, or
26 drilling supervisor who engages for compensation in the drilling, boring, coring, or construction
27 of any well in this state which is drilled for geologic data, water quality, or hydroponic data;

28 (9) "Permitted well driller", any person who holds a permit issued pursuant to the
29 provisions of sections 256.600 to 256.640;

30 (10) "Person", any individual, whether or not connected with a firm, partnership,
31 association, corporation, or any other group or combination acting as a unit;

32 (11) "Pump installation contractor", any person, firm or corporation engaged in the
33 business of installing or repairing pumps and pumping equipment;

34 (12) "Registration report", a form to be sent to the division upon completion of plugging
35 of an abandoned well, raising casings, lining wells, deepening of wells, major repairs and
36 alterations, and jetted wells;

37 (13) "Well", an excavation that is drilled, cored, bored, washed, driven, dug, jetted,
38 trenched, or otherwise constructed when the intended use of such excavation is for the
39 acquisition of groundwater supply, for monitoring, thermal exchange or for exploration for
40 minerals or geologic or hydroponic data; but such term does not include a cistern, an excavation
41 made for the purpose of obtaining or for prospecting for oil or natural gas, or for construction
42 foundation data, dewatering of construction sites or dewatering of existing structures,
43 observation wells used as a part of an underground storage tank leak detection system of a
44 minimal depth, as determined by the board by rule, or for inserting media to repressure oil or
45 natural-gas-bearing formations;

46 (14) "Well installation contractor", any person, including owner, operator, and drilling
47 supervisor who engages for compensation in the drilling, boring, coring, or construction of any
48 well in this state. The term, however, shall not include any person who drills, bores, cores, or
49 constructs a water well on his own property for his own use or a person who assists in the
50 construction of a water well under the direct supervision of a permitted well installation
51 contractor and is not primarily responsible for drilling operations;

52 (15) "Well owner", any person or corporation who is the party responsible for having a
53 well drilled and whose name appears on the well registration or certification form.

256.621. All persons engaged in groundwater or surface water tracing, for any purpose, shall register with the division of **geology and land survey**. This registration shall be renewed annually. The registrant shall report in writing all proposed injections of tracers to the division of **geology and land survey** prior to actual injection. Written and graphical documentation of traces shall be provided to the division of **geology and land survey** within thirty days of completion of each trace. The division of **geology and land survey** shall maintain records of all injections and traces reported and will provide this information to interested parties upon request at the cost of reproduction.

259.010. There shall be a "State Oil and Gas Council" composed of the following state agencies and two other persons as provided in section 259.020:

- (1) Division of [geological survey and water resources] **geology and land survey**;
- (2) Division of commerce and industrial development;
- (3) Missouri public service commission;
- (4) Clean water commission;
- (5) University of Missouri.

259.030. 1. The council shall elect a chairman and vice chairman from the members of the council other than the representative of the division of [geological survey and water resources] **geology and land survey**. A chairman may serve more than one term.

2. The state geologist shall act as administrator for the council and shall be responsible for enforcing the provisions of this chapter.

278.070. As used in sections 278.060 to 278.300, the following words and terms mean:

- (1) "Board of soil and water district supervisors" or "soil and water supervisors", the local governing body of a soil and water district, elected or appointed in accordance with the provisions of this law;
- (2) "Landowner", any person, firm or corporation who holds title to any lands lying within a district organized or to be organized under the provisions of this chapter. Any landowner may be represented by notarized proxy not more than one year old;
- (3) "Land representative", the owner or representative authorized by power of attorney of any farm lying within any area proposed to be established, and subsequently established, as a soil and water district under the provisions of this law, and for the purposes of this law each such farm shall be entitled to representation by a land representative; provided, however, that any land representative must be a taxpayer of the county within which the soil and water district is located;
- (4) "Soil and water conservation cost-share program", a state-funded incentive program designed for the purpose of saving the soil **and protecting the water resources** of the state

16 [through erosion control and abatement] **to preserve the productive power of Missouri**
17 **agricultural land;**

18 (5) "Soil and water conservation district" or "soil and water district", a county or one or
19 more of its townships wherein a project for saving the soil and water has been established with
20 the authority and duty and subject to the restrictions herein set forth; and in establishing a soil
21 and water district, if the proposed area is less than the area of the county which contains it, but
22 greater than the area of one township, the additional township or townships to be included in
23 such soil and water district need not be contiguous with the first township or with one another,
24 but there shall be only one soil and water district within the boundaries of the same county; and
25 any farm intersected by a soil and water district boundary shall be considered as lying within that
26 district for purposes of soil and water conservation by that district, except that the soil and water
27 conservation of a farm which lies partly within one soil and water district and partly within
28 another shall be considered the duty of the soil and water district in which the home buildings
29 of such farm are located;

30 (6) "State soil and water districts commission" or "soil and water commission", the
31 agency created by section 278.080 for the administration of the soil and water conservation
32 districts provided for by this law;

33 (7) **"Subdistrict", "watershed subdistrict", or "watershed district", as used in**
34 **sections 278.160 to 278.300, describe a watershed district, with the exception of section**
35 **278.160, whereby the term "subdistrict" is specifically used to describe the relationship to**
36 **an established soil and water conservation district that may be established as a watershed**
37 **district;**

38 (8) "Township", municipal township and not congressional or survey township.

301.020. 1. Every owner of a motor vehicle or trailer, which shall be operated or driven
2 upon the highways of this state, except as herein otherwise expressly provided, shall annually
3 file, by mail or otherwise, in the office of the director of revenue, an application for registration
4 on a blank to be furnished by the director of revenue for that purpose containing:

5 (1) A brief description of the motor vehicle or trailer to be registered, including the name
6 of the manufacturer, the vehicle identification number, the amount of motive power of the motor
7 vehicle, stated in figures of horsepower and whether the motor vehicle is to be registered as a
8 motor vehicle primarily for business use as defined in section 301.010;

9 (2) The name, the applicant's identification number and address of the owner of such
10 motor vehicle or trailer;

11 (3) The gross weight of the vehicle and the desired load in pounds if the vehicle is a
12 commercial motor vehicle or trailer.

13 2. If the vehicle is a motor vehicle primarily for business use as defined in section
14 301.010 and if such vehicle is five years of age or less, the director of revenue shall retain the
15 odometer information provided in the vehicle inspection report, and provide for prompt access
16 to such information, together with the vehicle identification number for the motor vehicle to
17 which such information pertains, for a period of five years after the receipt of such information.
18 This section shall not apply unless:

19 (1) The application for the vehicle's certificate of ownership was submitted after July 1,
20 1989; and

21 (2) The certificate was issued pursuant to a manufacturer's statement of origin.

22 3. If the vehicle is any motor vehicle other than a motor vehicle primarily for business
23 use, a recreational motor vehicle, motorcycle, motortricycle, bus or any commercial motor
24 vehicle licensed for over twelve thousand pounds and if such motor vehicle is five years of age
25 or less, the director of revenue shall retain the odometer information provided in the vehicle
26 inspection report, and provide for prompt access to such information, together with the vehicle
27 identification number for the motor vehicle to which such information pertains, for a period of
28 five years after the receipt of such information. This subsection shall not apply unless:

29 (1) The application for the vehicle's certificate of ownership was submitted after July 1,
30 1990; and

31 (2) The certificate was issued pursuant to a manufacturer's statement of origin.

32 4. If the vehicle qualifies as a reconstructed motor vehicle, motor change vehicle,
33 specially constructed motor vehicle, non-USA-std motor vehicle, as defined in section 301.010,
34 or prior salvage as referenced in section 301.573, the owner or lienholder shall surrender the
35 certificate of ownership. The owner shall make an application for a new certificate of ownership,
36 pay the required title fee, and obtain the vehicle examination certificate required pursuant to
37 subsection 9 of section 301.190. If an insurance company pays a claim on a salvage vehicle as
38 defined in section 301.010 and the owner retains the vehicle, as prior salvage, the vehicle shall
39 only be required to meet the examination requirements under and pursuant to subsection 10 of
40 section 301.190. Notarized bills of sale along with a copy of the front and back of the certificate
41 of ownership for all major component parts installed on the vehicle and invoices for all essential
42 parts which are not defined as major component parts shall accompany the application for a new
43 certificate of ownership. If the vehicle is a specially constructed motor vehicle, as defined in
44 section 301.010, two pictures of the vehicle shall be submitted with the application. If the
45 vehicle is a kit vehicle, the applicant shall submit the invoice and the manufacturer's statement
46 of origin on the kit. If the vehicle requires the issuance of a special number by the director of
47 revenue or a replacement vehicle identification number, the applicant shall submit the required
48 application and application fee. All applications required under this subsection shall be

49 submitted with any applicable taxes which may be due on the purchase of the vehicle or parts.
50 The director of revenue shall appropriately designate "Reconstructed Motor Vehicle", "Motor
51 Change Vehicle", "Non-USA-Std Motor Vehicle", or "Specially Constructed Motor Vehicle" on
52 the current and all subsequent issues of the certificate of ownership of such vehicle.

53 5. Every insurance company that pays a claim for repair of a motor vehicle which as the
54 result of such repairs becomes a reconstructed motor vehicle as defined in section 301.010 or that
55 pays a claim on a salvage vehicle as defined in section 301.010 and the owner is retaining the
56 vehicle shall in writing notify the owner of the vehicle, and in a first party claim, the lienholder
57 if a lien is in effect, that he is required to surrender the certificate of ownership, and the
58 documents and fees required pursuant to subsection 4 of this section to obtain a prior salvage
59 motor vehicle certificate of ownership or documents and fees as otherwise required by law to
60 obtain a salvage certificate of ownership, from the director of revenue. The insurance company
61 shall within thirty days of the payment of such claims report to the director of revenue the name
62 and address of such owner, the year, make, model, vehicle identification number, and license
63 plate number of the vehicle, and the date of loss and payment.

64 6. Anyone who fails to comply with the requirements of this section shall be guilty of
65 a class B misdemeanor.

66 7. An applicant for registration may make a donation of one dollar to promote a
67 blindness education, screening and treatment program. The director of revenue shall collect the
68 donations and deposit all such donations in the state treasury to the credit of the blindness
69 education, screening and treatment program fund established in section [192.935] **209.015**,
70 RSMo. Moneys in the blindness education, screening and treatment program fund shall be used
71 solely for the purposes established in section [192.935] **209.015**, RSMo, except that the
72 department of revenue shall retain no more than one percent for its administrative costs. The
73 donation prescribed in this subsection is voluntary and may be refused by the applicant for
74 registration at the time of issuance or renewal. The director shall inquire of each applicant at the
75 time the applicant presents the completed application to the director whether the applicant is
76 interested in making the one dollar donation prescribed in this subsection.

77 8. An applicant for registration may make a donation of one dollar to promote an organ
78 donor program. The director of revenue shall collect the donations and deposit all such
79 donations in the state treasury to the credit of the organ donor program fund as established in
80 sections 194.297 to 194.304, RSMo. Moneys in the organ donor fund shall be used solely for
81 the purposes established in sections 194.297 to 194.304, RSMo, except that the department of
82 revenue shall retain no more than one percent for its administrative costs. The donation
83 prescribed in this subsection is voluntary and may be refused by the applicant for registration at
84 the time of issuance or renewal. The director shall inquire of each applicant at the time the

85 applicant presents the completed application to the director whether the applicant is interested
86 in making the one dollar donation prescribed in this subsection.

302.171. 1. Beginning July 1, 2005, the director shall verify that an applicant for a
2 driver's license is lawfully present in the United States before accepting the application. The
3 director shall not issue a driver's license for a period that exceeds an applicant's lawful presence
4 in the United States. The director may establish procedures to verify the lawful presence of the
5 applicant and establish the duration of any driver's license issued under this section. An
6 application for a license shall be made upon an approved form furnished by the director. Every
7 application shall state the full name, Social Security number, age, height, weight, color of eyes,
8 sex, residence, mailing address of the applicant, and the classification for which the applicant
9 has been licensed, and, if so, when and by what state, and whether or not such license has ever
10 been suspended, revoked, or disqualified, and, if revoked, suspended or disqualified, the date and
11 reason for such suspension, revocation or disqualification and whether the applicant is making
12 a one dollar donation to promote an organ donation program as prescribed in subsection 2 of this
13 section. A driver's license, nondriver's license, or instruction permit issued under this chapter
14 shall contain the applicant's legal name as it appears on a birth certificate or as legally changed
15 through marriage or court order. No name change by common usage based on common law shall
16 be permitted. The application shall also contain such information as the director may require to
17 enable the director to determine the applicant's qualification for driving a motor vehicle; and
18 shall state whether or not the applicant has been convicted in this or any other state for violating
19 the laws of this or any other state or any ordinance of any municipality, relating to driving
20 without a license, careless driving, or driving while intoxicated, or failing to stop after an
21 accident and disclosing the applicant's identity, or driving a motor vehicle without the owner's
22 consent. The application shall contain a certification by the applicant as to the truth of the facts
23 stated therein. Every person who applies for a license to operate a motor vehicle who is less than
24 twenty-one years of age shall be provided with educational materials relating to the hazards of
25 driving while intoxicated, including information on penalties imposed by law for violation of the
26 intoxication-related offenses of the state. Beginning January 1, 2001, if the applicant is less than
27 eighteen years of age, the applicant must comply with all requirements for the issuance of an
28 intermediate driver's license pursuant to section 302.178. For persons mobilized and deployed
29 with the United States Armed Forces, an application under this subsection shall be considered
30 satisfactory by the department of revenue if it is signed by a person who holds general power of
31 attorney executed by the person deployed, provided the applicant meets all other requirements
32 set by the director.

33 2. An applicant for a license may make a donation of one dollar to promote an organ
34 donor program. The director of revenue shall collect the donations and deposit all such

35 donations in the state treasury to the credit of the organ donor program fund established in
36 sections 194.297 to 194.304, RSMo. Moneys in the organ donor program fund shall be used
37 solely for the purposes established in sections 194.297 to 194.304, RSMo, except that the
38 department of revenue shall retain no more than one percent for its administrative costs. The
39 donation prescribed in this subsection is voluntary and may be refused by the applicant for the
40 license at the time of issuance or renewal of the license. The director shall make available an
41 informational booklet or other informational sources on the importance of organ donations to
42 applicants for licensure as designed by the organ donation advisory committee established in
43 sections 194.297 to 194.304, RSMo. The director shall inquire of each applicant at the time the
44 licensee presents the completed application to the director whether the applicant is interested in
45 making the one dollar donation prescribed in this subsection and whether the applicant is
46 interested in inclusion in the organ donor registry and shall also specifically inform the licensee
47 of the ability to consent to organ donation by completing the form on the reverse of the license
48 that the applicant will receive in the manner prescribed by subsection 6 of section 194.240,
49 RSMo. The director shall notify the department of health and senior services of information
50 obtained from applicants who indicate to the director that they are interested in registry
51 participation, and the department of health and senior services shall enter the complete name,
52 address, date of birth, race, gender and a unique personal identifier in the registry established in
53 subsection 1 of section 194.304, RSMo.

54 3. An applicant for a license may make a donation of one dollar to promote a blindness
55 education, screening and treatment program. The director of revenue shall collect the donations
56 and deposit all such donations in the state treasury to the credit of the blindness education,
57 screening and treatment program fund established in section [192.935] **209.015**, RSMo. Moneys
58 in the blindness education, screening and treatment program fund shall be used solely for the
59 purposes established in section [192.935] **209.015**, RSMo, except that the department of revenue
60 shall retain no more than one percent for its administrative costs. The donation prescribed in this
61 subsection is voluntary and may be refused by the applicant for the license at the time of issuance
62 or renewal of the license. The director shall inquire of each applicant at the time the licensee
63 presents the completed application to the director whether the applicant is interested in making
64 the one dollar donation prescribed in this subsection.

65 4. Beginning July 1, 2005, the director shall deny the driving privilege of any person who
66 commits fraud or deception during the examination process or who makes application for an
67 instruction permit, driver's license, or nondriver's license which contains or is substantiated with
68 false or fraudulent information or documentation, or who knowingly conceals a material fact or
69 otherwise commits a fraud in any such application. The period of denial shall be one year from
70 the effective date of the denial notice sent by the director. The denial shall become effective ten

71 days after the date the denial notice is mailed to the person. The notice shall be mailed to the
72 person at the last known address shown on the person's driving record. The notice shall be
73 deemed received three days after mailing unless returned by the postal authorities. No such
74 individual shall reapply for a driver's examination, instruction permit, driver's license, or
75 nondriver's license until the period of denial is completed. No individual who is denied the
76 driving privilege under this section shall be eligible for a limited driving privilege issued under
77 section 302.309.

78 5. All appeals of denials under this section shall be made as required by section 302.311.

79 6. The period of limitation for criminal prosecution under this section shall be extended
80 under subdivision (1) of subsection 3 of section 556.036, RSMo.

81 7. The director may promulgate rules and regulations necessary to administer and enforce
82 this section. No rule or portion of a rule promulgated pursuant to the authority of this section
83 shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

84 8. Notwithstanding any provisions of this chapter that requires an applicant to provide
85 proof of lawful presence for renewal of a noncommercial driver's license, noncommercial
86 instruction permit, or nondriver's license, an applicant who is sixty-five years and older and who
87 was previously issued a Missouri noncommercial driver's license, noncommercial instruction
88 permit, or Missouri nondriver's license is exempt from showing proof of lawful presence.

89 9. Notwithstanding any other provision of this chapter, if an applicant does not meet the
90 requirements of subsection 8 of this section and does not have the required documents to prove
91 lawful presence, the department may issue a one-year driver's license renewal. This one-time
92 renewal shall only be issued to an applicant who previously has held a Missouri noncommercial
93 driver's license, noncommercial instruction permit, or nondriver's license for a period of fifteen
94 years or more and who does not have the required documents to prove lawful presence. After
95 the expiration of the one-year period, no further renewal shall be provided without the applicant
96 producing proof of lawful presence.

304.028. 1. There is hereby created in the state treasury for use by the [Missouri Head
2 Injury Advisory Council] **department of health and senior services** a fund to be known as the
3 "[Head] **Brain** Injury Fund". All judgments collected pursuant to this section, federal grants,
4 private donations and any other moneys designated for the [head] **brain** injury fund shall be
5 deposited in the fund. Moneys deposited in the fund shall, upon appropriation by the general
6 assembly to the [office of administration] **department of health and senior services**, be
7 received and expended by the [council] **department** for the purpose of transition and integration
8 of medical, social and educational services or activities for purposes of outreach and [short-term]
9 supports to enable individuals with traumatic [head] **brain** injury and their families to live in the
10 community[, including counseling and mentoring the families]. Notwithstanding the provisions

11 of section 33.080, RSMo, to the contrary, any unexpended balance in the [head] **brain** injury
12 fund at the end of any biennium shall not be transferred to the general revenue fund.

13 2. In all criminal cases including violations of any county ordinance or any violation of
14 criminal or traffic laws of this state, including an infraction, there shall be assessed as costs a
15 surcharge in the amount of two dollars. No such surcharge shall be collected in any proceeding
16 involving a violation of an ordinance or state law when the proceeding or defendant has been
17 dismissed by the court or when costs are to be paid by the state, county or municipality.

18 3. Such surcharge shall be collected and distributed by the clerk of the court as provided
19 in sections 488.010 to 488.020, RSMo. The surcharge collected pursuant to this section shall
20 be paid to the state treasury to the credit of the [head] **brain** injury fund established in this
21 section.

384.025. 1. If at any time the director has reason to believe that an eligible surplus lines
2 insurer:

- 3 (1) Is in unsound financial condition;
- 4 (2) Is no longer eligible under section 384.021;
- 5 (3) Has willfully violated the laws of this state; or
- 6 (4) Does not make reasonably prompt payment of just losses and claims in this state or
7 elsewhere;

8

9 the director may declare it ineligible.

10 2. The director shall promptly [mail] **publish** notice of all such declarations [to each
11 surplus lines licensee] **in any public electronic format.**

384.051. 1. Every insured in this state who procures or causes to be procured or
2 continues or renews insurance in any surplus lines insurer, or any self-insurer in this state who
3 so procures or continues with, any surplus lines insurer, excess of loss, catastrophe or other
4 insurance, upon a subject of insurance resident, located or to be performed within this state, other
5 than insurance procured through a surplus lines broker pursuant to sections 384.011 to 384.071,
6 shall before March second of the year next succeeding the year in which the insurance was so
7 procured, continued or renewed, file a written report of the same with the director on forms
8 prescribed by the director and furnished to such an insured upon request. The report shall show:

- 9 (1) The name and address of the insured or insureds;
- 10 (2) The name and address of the insurer or insurers;
- 11 (3) The subject of the insurance;
- 12 (4) A general description of the coverage;
- 13 (5) The amount of premium currently charged therefor;

14 (6) Such additional pertinent information as may be reasonably requested by the director.

15 2. If any such insurance covers also a subject of insurance resident, located or to be
16 performed outside this state, for the purposes of this section, a proper pro rata portion of the
17 entire premium payable for all such insurance shall be allocated as to the subjects of insurance
18 resident, located or to be performed in this state.

19 3. Any insurance in a surplus lines insurer procured through negotiations or an
20 application in whole or in part occurring or made within or from within this state, or for which
21 premiums in whole or in part are remitted directly or indirectly from within this state, shall be
22 deemed to be insurance procured or continued or renewed in this state within the intent of
23 subsection 1 of this section.

24 4. For the general support of the government of this state there is levied upon the insured
25 **or self-insurer** who procures insurance pursuant to subsections 1 and 3 of this section a tax at
26 the rate of five percent of the net amount of the premium in respect of risks located in this state.
27 Before April sixteenth of the year next succeeding the year in which the insurance was so
28 procured, continued or renewed, the insured shall remit to the [director] **department of revenue**
29 the amount of the tax. [The director before June first of each year shall certify and transmit to
30 the director of revenue the sums so collected.] **The department of revenue shall notify the**
31 **director of the sums collected from each insured or self-insurer.**

384.057. 1. Before March second of each year, each surplus lines broker shall report
2 under oath to the director on forms prescribed by [him] **the director** a statement showing, **with**
3 **respect to the year ending the immediately preceding December thirty-first:**

4 (1) The gross amounts charged for surplus lines insurance with respect to risks located
5 within this state, exclusive of sums collected for the payment of federal, state or local taxes;

6 (2) The amount of net premiums with respect to the insurance.

7 **2. Within forty-five days after the end of the calendar quarter ending March thirty-**
8 **first, June thirtieth, September thirtieth, and December thirty-first, each surplus lines**
9 **broker shall report under oath to the director on forms prescribed by the director a**
10 **statement showing, with respect to each respective calendar quarter:**

11 (1) **The gross amounts charged for surplus lines insurance with respect to risks**
12 **located within this state, exclusive of sums collected for the payment of federal, state, or**
13 **local taxes;**

14 (2) **The amount of net premiums with respect to the insurance.**

15 3. For the purpose of this section, "net premiums" means the gross amount of charges
16 for surplus lines insurance with respect to risks located within this state, exclusive of sums
17 collected for the payment of federal, state and local taxes, less returned premiums.

384.062. 1. If [the tax collectible] **any tax, penalty, or interest payable** by a surplus lines licensee under the provisions of sections 384.011 to 384.071 [has been collected and] is not paid within the time prescribed, the same shall be recoverable in a suit brought by the director against the surplus lines licensee.

2. All taxes, penalties, and interest or delinquent taxes levied pursuant to this chapter shall be paid to the [director] **department of revenue**, who shall [obtain such taxes, penalties and interest by civil action against the insured or the surplus lines licensee, and the director shall remit such taxes when collected to the director of revenue] **notify the director of the sums collected from each surplus lines licensee**. All checks and drafts remitted for the payment of such taxes, penalties and interest shall be made payable to the director of revenue.

3. Taxes collected pursuant to this chapter are taxes collected by the director of revenue within the meaning of section 139.031, RSMo.

595.010. 1. As used in sections 595.010 to 595.075, unless the context requires otherwise, the following terms shall mean:

(1) "Child", a dependent, unmarried person who is under eighteen years of age and includes a posthumous child, stepchild, or an adopted child;

(2) "Claimant", a victim or a dependent, relative, survivor, or member of the family, of a victim eligible for compensation pursuant to sections 595.010 to 595.075;

(3) "Conservator", a person or corporation appointed by a court to have the care and custody of the estate of a minor or a disabled person, including a limited conservator;

(4) "Counseling", problem-solving and support concerning emotional issues that result from criminal victimization licensed pursuant to section 595.030. Counseling is a confidential service provided either on an individual basis or in a group. Counseling has as a primary purpose to enhance, protect and restore a person's sense of well-being and social functioning after victimization. Counseling does not include victim advocacy services such as crisis telephone counseling, attendance at medical procedures, law enforcement interviews or criminal justice proceedings;

(5) "Crime", an act committed in this state which, if committed by a mentally competent, criminally responsible person who had no legal exemption or defense, would constitute a crime; provided that, such act involves the application of force or violence or the threat of force or violence by the offender upon the victim but shall include the crime of driving while intoxicated, vehicular manslaughter and hit and run; and provided, further, that no act involving the operation of a motor vehicle except driving while intoxicated, vehicular manslaughter and hit and run which results in injury to another shall constitute a crime for the purpose of sections 595.010 to 595.075, unless such injury was intentionally inflicted through the use of a motor vehicle. A

24 crime shall also include an act of terrorism, as defined in 18 U.S.C. section 2331, which has been
25 committed outside of the United States against a resident of Missouri;

26 (6) "Crisis intervention counseling", helping to reduce psychological trauma where
27 victimization occurs;

28 (7) "Department", the department of public safety;

29 (8) "Dependent", mother, father, spouse, spouse's mother, spouse's father, child,
30 grandchild, adopted child, illegitimate child, niece or nephew, who is wholly or partially
31 dependent for support upon, and living with, but shall include children entitled to child support
32 but not living with, the victim at the time of his injury or death due to a crime alleged in a claim
33 pursuant to sections 595.010 to 595.070;

34 (9) "Direct service", providing physical services to a victim of crime including, but not
35 limited to, transportation, funeral arrangements, child care, emergency food, clothing, shelter,
36 notification and information;

37 (10) "Director", the director of public safety of this state or a person designated by him
38 for the purposes of sections 595.010 to 595.070;

39 (11) "Disabled person", one who is unable by reason of any physical or mental condition
40 to receive and evaluate information or to communicate decisions to such an extent that the
41 person lacks ability to manage his financial resources, including a partially disabled person who
42 lacks the ability, in part, to manage his financial resources;

43 (12) ["Division", the division of workers' compensation of the state of Missouri;

44 (13)] "Emergency service", those services provided within thirty days to alleviate the
45 immediate effects of the criminal act or offense, and may include cash grants of not more than
46 one hundred dollars;

47 [(14)] (13) "Earnings", net income or net wages;

48 [(15)] (14) "Family", the spouse, parent, grandparent, stepmother, stepfather, child,
49 grandchild, brother, sister, half brother, half sister, adopted children of parent, or spouse's
50 parents;

51 [(16)] (15) "Funeral expenses", the expenses of the funeral, burial, cremation or other
52 chosen method of interment, including plot or tomb and other necessary incidents to the
53 disposition of the remains;

54 [(17)] (16) "Gainful employment", engaging on a regular and continuous basis, up to the
55 date of the incident upon which the claim is based, in a lawful activity from which a person
56 derives a livelihood;

57 [(18)] (17) "Guardian", one appointed by a court to have the care and custody of the
58 person of a minor or of an incapacitated person, including a limited guardian;

59 [(19)] (18) "Hit and run", the crime of leaving the scene of a motor vehicle accident as
60 defined in section 577.060, RSMo;

61 [(20)] (19) "Incapacitated person", one who is unable by reason of any physical or mental
62 condition to receive and evaluate information or to communicate decisions to such an extent that
63 he lacks capacity to meet essential requirements for food, clothing, shelter, safety or other care
64 such that serious physical injury, illness, or disease is likely to occur, including a partially
65 incapacitated person who lacks the capacity to meet, in part, such essential requirements;

66 [(21)] (20) "Injured victim", a person:

67 (a) Killed or receiving a personal physical injury in this state as a result of another
68 person's commission of or attempt to commit any crime;

69 (b) Killed or receiving a personal physical injury in this state while in a good faith
70 attempt to assist a person against whom a crime is being perpetrated or attempted;

71 (c) Killed or receiving a personal physical injury in this state while assisting a law
72 enforcement officer in the apprehension of a person who the officer has reason to believe has
73 perpetrated or attempted a crime;

74 [(22)] (21) "Law enforcement official", a sheriff and his regular deputies, municipal
75 police officer or member of the Missouri state highway patrol and such other persons as may be
76 designated by law as peace officers;

77 [(23)] (22) "Offender", a person who commits a crime;

78 [(24)] (23) "Personal physical injury", actual bodily harm only with respect to the victim.
79 Personal physical injury may include mental or nervous shock resulting from the specific
80 incident upon which the claim is based;

81 [(25)] (24) "Private agency", a not-for-profit corporation, in good standing in this state,
82 which provides services to victims of crime and their dependents;

83 [(26)] (25) "Public agency", a part of any local or state government organization which
84 provides services to victims of crime;

85 [(27)] (26) "Relative", the spouse of the victim or a person related to the victim within
86 the third degree of consanguinity or affinity as calculated according to civil law;

87 [(28)] (27) "Survivor", the spouse, parent, legal guardian, grandparent, sibling or child
88 of the deceased victim of the victim's household at the time of the crime;

89 [(29)] (28) "Victim", a person who suffers personal physical injury or death as a direct
90 result of a crime, as defined in subdivision (5) of this subsection;

91 [(30)] (29) "Victim advocacy", assisting the victim of a crime and his dependents to
92 acquire services from existing community resources.

93 2. As used in sections 565.024 and 565.060, RSMo, and sections 595.010 to 595.075,
94 the term "alcohol-related traffic offense" means those offenses defined by sections 577.001,

95 577.010, and 577.012, RSMo, and any county or municipal ordinance which prohibits operation
96 of a motor vehicle while under the influence of alcohol.

595.015. 1. The [division of workers' compensation] **department of public safety** shall,
2 pursuant to the provisions of sections 595.010 to 595.075, have jurisdiction to determine and
3 award compensation to, or on behalf of, victims of crimes. The [division of workers'
4 compensation] **department of public safety** may pay directly to the provider of the services
5 compensation for medical or funeral expenses, or expenses for other services as described in
6 section 595.030, incurred by the claimant. The [division] **department** is not required to provide
7 compensation in any case, nor is it required to award the full amount claimed. The [division]
8 **department** shall make its award of compensation based upon independent verification obtained
9 during its investigation.

10 2. Such claims shall be made by filing an application for compensation with the [division
11 of workers' compensation] **department of public safety**. The application form shall be
12 furnished by the [division] **department** and the signature shall be notarized. The application
13 shall include:

14 (1) The name and address of the victim;

15 (2) If the claimant is not the victim, the name and address of the claimant and
16 relationship to the victim, the names and addresses of the victim's dependents, if any, and the
17 extent to which each is so dependent;

18 (3) The date and nature of the crime or attempted crime on which the application for
19 compensation is based;

20 (4) The date and place where, and the law enforcement officials to whom, notification
21 of the crime was given;

22 (5) The nature and extent of the injuries sustained by the victim, the names and addresses
23 of those giving medical and hospital treatment to the victim and whether death resulted;

24 (6) The loss to the claimant or a dependent resulting from the injury or death;

25 (7) The amount of benefits, payments or awards, if any, payable from any source which
26 the claimant or dependent has received or for which the claimant or dependent is eligible as a
27 result of the injury or death;

28 (8) Releases authorizing the surrender to the [division] **department** of reports,
29 documents and other information relating to the matters specified under this section; and

30 (9) Such other information as the [division] **department** determines is necessary.

31 3. In addition to the application, the [division] **department** may require that the claimant
32 submit materials substantiating the facts stated in the application.

33 4. If the [division] **department** finds that an application does not contain the required
34 information or that the facts stated therein have not been substantiated, it shall notify the

35 claimant in writing of the specific additional items of information or materials required and that
36 the claimant has thirty days from the date of mailing in which to furnish those items to the
37 [division] **department**. Unless a claimant requests and is granted an extension of time by the
38 [division] **department**, the [division] **department** shall reject with prejudice the claim of the
39 claimant for failure to file the additional information or materials within the specified time.

40 5. The claimant may file [an amended application or] additional substantiating materials
41 to correct inadvertent errors or omissions at any time before the [division] **department** has
42 completed its consideration of the original application.

43 6. The claimant, victim or dependent shall cooperate with law enforcement officials in
44 the apprehension and prosecution of the offender in order to be eligible, or the [division]
45 **department** has found that the failure to cooperate was for good cause.

46 7. Any state or local agency, including a prosecuting attorney or law enforcement agency,
47 shall make available without cost to the fund, all reports, files and other appropriate information
48 which the [division] **department** requests in order to make a determination that a claimant is
49 eligible for an award pursuant to sections 595.010 to 595.075.

595.020. 1. Except as hereinafter provided, the following persons shall be eligible for
2 compensation pursuant to sections 595.010 to 595.075:

3 (1) A victim of a crime;

4 (2) In the case of a sexual assault victim:

5 (a) A relative of the victim requiring counseling in order to better assist the victim in his
6 recovery; and

7 (3) In the case of the death of the victim as a direct result of the crime:

8 (a) A dependent of the victim;

9 (b) Any member of the family who legally assumes the obligation, or who pays the
10 medical or burial expenses incurred as a direct result thereof; and

11 (c) A survivor of the victim requiring counseling as a direct result of the death of the
12 victim.

13 2. An offender or an accomplice of an offender shall in no case be eligible to receive
14 compensation with respect to a crime committed by the offender. No victim or dependent shall
15 be denied compensation solely because he is a relative of the offender or was living with the
16 offender as a family or household member at the time of the injury or death. However, the
17 [division] **department** may award compensation to a victim or dependent who is a relative,
18 family or household member of the offender only if the [division] **department** can reasonably
19 determine the offender will receive no substantial economic benefit or unjust enrichment from
20 the compensation.

21 3. No compensation of any kind may be made to a victim or intervenor injured while
22 confined in any federal, state, county, or municipal jail, prison or other correctional facility,
23 including house arrest **or electronic monitoring**.

24 4. No compensation of any kind may be made to a victim who has been finally
25 adjudicated and found guilty, in a criminal prosecution under the laws of this state, of two
26 felonies within the past ten years, of which one or both involves illegal drugs or violence. The
27 [division] **department** may waive this restriction if it determines that the interest of justice
28 would be served otherwise.

29 5. In the case of a claimant who is not otherwise ineligible pursuant to subsection 4 of
30 this section, who is incarcerated as a result of a conviction of a crime not related to the incident
31 upon which the claim is based at the time of application, or at any time following the filing of
32 the application:

33 (1) The [division] **department** shall suspend all proceedings and payments until such
34 time as the claimant is released from incarceration;

35 (2) The [division] **department** shall notify the applicant at the time the proceedings are
36 suspended of the right to reactivate the claim within six months of release from incarceration.
37 The notice shall be deemed sufficient if mailed to the applicant at the applicant's last known
38 address;

39 (3) The claimant shall file an application to request that the case be reactivated not later
40 than six months after the date the claimant is released from incarceration. Failure to file such
41 request within the six-month period shall serve as a bar to any recovery.

42 6. Victims of crime who are not residents of the state of Missouri may be compensated
43 only when federal funds are available for that purpose. Compensation for nonresident victims
44 shall terminate when federal funds for that purpose are no longer available.

45 7. A Missouri resident who suffers personal physical injury or, in the case of death, a
46 dependent of the victim or any member of the family who legally assumes the obligation, or who
47 pays the medical or burial expenses incurred as a direct result thereof, in another state,
48 possession or territory of the United States may make application for compensation in Missouri
49 if:

50 (1) The victim of the crime would be compensated if the crime had occurred in the state
51 of Missouri;

52 (2) The place that the crime occurred is a state, possession or territory of the United
53 States, or location outside of the United States that is covered and defined in 18 U.S.C. section
54 2331, that does not have a crime victims' compensation program for which the victim is eligible
55 and which provides at least the same compensation that the victim would have received if he had
56 been injured in Missouri.

2 595.025. 1. A claim for compensation may be filed by a person eligible for
3 compensation or, if the person is an incapacitated or disabled person, or a minor, by the person's
4 spouse, parent, conservator, or guardian.

5 2. A claim shall be filed not later than two years after the occurrence of the crime or the
6 discovery of the crime upon which it is based.

7 3. Each claim shall be filed in person or by mail. The [division of workers'
8 compensation] **department of public safety** shall investigate such claim, prior to the opening
9 of formal proceedings. The claimant shall be notified of the date and time of any hearing on such
10 claim. In determining the amount of compensation for which a claimant is eligible, the [division]
11 **department** shall consider the facts stated on the application filed pursuant to section 595.015,
12 and:

13 (1) Need not consider whether or not the alleged assailant has been apprehended or
14 brought to trial or the result of any criminal proceedings against that person; however, if any
15 person is convicted of the crime which is the basis for an application for compensation, proof
16 of the conviction shall be conclusive evidence that the crime was committed;

17 (2) Shall determine the amount of the loss to the claimant, or the victim's survivors or
18 dependents;

19 (3) Shall determine the degree or extent to which the victim's acts or conduct provoked,
20 incited, or contributed to the injuries or death of the victim.

21 4. The claimant may present evidence and testimony on his own behalf or may retain
22 counsel. The [division of workers' compensation] **department of public safety** may, as part of
23 any award entered under sections 595.010 to 595.075, determine and allow reasonable attorney's
24 fees, which shall not exceed fifteen percent of the amount awarded as compensation under
25 sections 595.010 to 595.075, which fee shall be paid out of, but not in addition to, the amount
26 of compensation, to the attorney representing the claimant. No attorney for the claimant shall
27 ask for, contract for or receive any larger sum than the amount so allowed.

28 5. The person filing a claim shall, prior to any hearing thereon, submit reports, if
29 available, from all hospitals, physicians or surgeons who treated or examined the victim for the
30 injury for which compensation is sought. If, in the opinion of the [division of workers'
31 compensation] **department of public safety**, an examination of the injured victim and a report
32 thereon, or a report on the cause of death of the victim, would be of material aid, the [division
33 of workers' compensation] **department of public safety** may appoint a duly qualified, impartial
34 physician to make such examination and report.

35 6. Each and every payment shall be exempt from attachment, garnishment or any other
remedy available to creditors for the collection of a debt.

36 7. Payments of compensation shall not be made directly to any person legally
37 incompetent to receive them but shall be made to the parent, guardian or conservator for the
38 benefit of such minor, disabled or incapacitated person.

 595.027. 1. Upon request by the [division] **department** for verification of injuries of
2 victims, medical providers shall submit the information requested by the [division] **department**
3 within twenty working days of the request at no cost to the fund.

4 2. For purposes of this section, "medical providers" means physicians, **pharmacists**,
5 dentists, clinical psychologists, optometrists, podiatrists, registered nurses, physician's assistants,
6 chiropractors, physical therapists, hospitals, **pharmacies**, ambulatory surgical centers, and
7 nursing homes.

8 3. Failure to submit the information as required by this section shall be an infraction.

 595.030. 1. No compensation shall be paid unless the claimant has incurred an
2 out-of-pocket loss of at least fifty dollars or has lost two continuous weeks of earnings or support
3 from gainful employment. "Out-of-pocket loss" shall mean unreimbursed or unreimbursable
4 expenses or indebtedness reasonably incurred:

5 (1) For medical care or other services, including psychiatric, psychological or counseling
6 expenses, necessary as a result of the crime upon which the claim is based, except that the
7 amount paid for psychiatric, psychological or counseling expenses per eligible claim shall not
8 exceed two thousand five hundred dollars; or

9 (2) As a result of personal property being seized in an investigation by law enforcement.
10 Compensation paid for an out-of-pocket loss under this subdivision shall be in an amount equal
11 to the loss sustained, but shall not exceed two hundred fifty dollars.

12 2. No compensation shall be paid unless the [division of workers' compensation]
13 **department of public safety** finds that a crime was committed, that such crime directly resulted
14 in personal physical injury to, or the death of, the victim, and that police records show that such
15 crime was promptly reported to the proper authorities. In no case may compensation be paid if
16 the police records show that such report was made more than forty-eight hours after the
17 occurrence of such crime, unless the [division of workers' compensation] **department of public**
18 **safety** finds that the report to the police was delayed for good cause. If the victim is under
19 eighteen years of age such report may be made by the victim's parent, guardian or custodian; by
20 a physician, a nurse, or hospital emergency room personnel; by the division of family services
21 personnel; or by any other member of the victim's family. In the case of a sexual offense, filing
22 a report of the offense to the proper authorities may include, but not be limited to, the filing of
23 the report of the forensic examination by the appropriate medical provider, as defined in section
24 191.225, RSMo, with the prosecuting attorney of the county in which the alleged incident
25 occurred.

26 3. No compensation shall be paid for medical care if the service provider is not a medical
27 provider as that term is defined in section 595.027, and the individual providing the medical care
28 is not licensed by the state of Missouri or the state in which the medical care is provided.

29 4. No compensation shall be paid for psychiatric treatment or other counseling services,
30 including psychotherapy, unless the service provider is a:

31 (1) Physician licensed pursuant to chapter 334, RSMo, or licensed to practice medicine
32 in the state in which the service is provided;

33 (2) Psychologist licensed pursuant to chapter 337, RSMo, or licensed to practice
34 psychology in the state in which the service is provided;

35 (3) Clinical social worker licensed pursuant to chapter 337, RSMo; or

36 (4) Professional counselor licensed pursuant to chapter 337, RSMo.

37 5. Any compensation paid pursuant to sections 595.010 to 595.075 for death or personal
38 injury shall be in an amount not exceeding out-of-pocket loss, together with loss of earnings or
39 support from gainful employment, not to exceed two hundred dollars per week, resulting from
40 such injury or death. In the event of death of the victim, an award may be made for reasonable
41 and necessary expenses actually incurred for preparation and burial not to exceed five thousand
42 dollars.

43 6. Any compensation for loss of earnings or support from gainful employment shall be
44 in an amount equal to the actual loss sustained not to exceed two hundred dollars per week;
45 provided, however, that no award pursuant to sections 595.010 to 595.075 shall exceed
46 twenty-five thousand dollars. If two or more persons are entitled to compensation as a result of
47 the death of a person which is the direct result of a crime or in the case of a sexual assault, the
48 compensation shall be apportioned by the division of workers' compensation among the
49 claimants in proportion to their loss.

50 7. The method and timing of the payment of any compensation pursuant to sections
51 595.010 to 595.075 shall be determined by the division.

595.035. 1. For the purpose of determining the amount of compensation payable
2 pursuant to sections 595.010 to 595.075, the [division of workers' compensation] **department**
3 **of public safety** shall, insofar as practicable, formulate standards for the uniform application of
4 sections 595.010 to 595.075, taking into consideration the provisions of sections 595.010 to
5 595.075, the rates and amounts of compensation payable for injuries and death pursuant to other
6 laws of this state and of the United States, excluding pain and suffering, and the availability of
7 funds appropriated for the purpose of sections 595.010 to 595.075. All decisions of the [division
8 of workers' compensation] **department of public safety** on claims [heard] pursuant to sections
9 595.010 to 595.075 shall be in writing, setting forth the name of the claimant, the amount of
10 compensation and the reasons for the decision. The [division of workers' compensation]

11 **department of public safety** shall immediately notify the claimant in writing of the decision and
12 shall forward to the state treasurer a certified copy of the decision and a warrant for the amount
13 of the claim. The state treasurer, upon certification by the commissioner of administration, shall,
14 if there are sufficient funds in the crime victims' compensation fund, pay to or on behalf of the
15 claimant the amount determined by the [division] **department**.

16 2. The crime victims' compensation fund is not a state health program and is not intended
17 to be used as a primary payor to other health care assistance programs, but is a public,
18 quasi-charitable fund whose fundamental purpose is to assist victims of violent crimes through
19 a period of financial hardship, as a payor of last resort. Accordingly, any compensation paid
20 pursuant to sections 595.010 to 595.075 shall be reduced by the amount of any payments,
21 benefits or awards received or to be received as a result of the injury or death:

22 (1) From or on behalf of the offender;

23 (2) Under private or public insurance programs, including champus, Medicare, Medicaid
24 and other state or federal programs, but not including any life insurance proceeds; or

25 (3) From any other public or private funds, including an award payable pursuant to the
26 workers' compensation laws of this state.

27 3. In determining the amount of compensation payable, the [division of workers'
28 compensation] **department of public safety** shall determine whether, because of the victim's
29 consent, provocation, incitement or negligence, the victim contributed to the infliction of the
30 victim's injury or death, and shall reduce the amount of the compensation or deny the claim
31 altogether, in accordance with such determination; provided, however, that the [division of
32 workers' compensation] **department of public safety** may disregard the responsibility of the
33 victim for his or her own injury where such responsibility was attributable to efforts by the
34 victim to aid a victim, or to prevent a crime or an attempted crime from occurring in his or her
35 presence, or to apprehend a person who had committed a crime in his or her presence or had in
36 fact committed a felony.

37 4. In determining the amount of compensation payable pursuant to sections 595.010 to
38 595.070, monthly Social Security disability or retirement benefits received by the victim shall
39 not be considered by the [division] **department** as a factor for reduction of benefits.

40 5. The [division] **department** shall not be liable for payment of compensation for any
41 out-of-pocket expenses incurred more than three years following the date of the occurrence of
42 the crime upon which the claim is based.

595.037. 1. All information submitted to the **department or division of workers'**
2 **compensation** and any hearing of the division of **workers' compensation** on a claim filed
3 pursuant to sections 595.010 to 595.070 shall be open to the public except for the following
4 claims which shall be deemed closed and confidential:

5 (1) A claim in which the alleged assailant has not been brought to trial and disclosure
6 of the information or a public hearing would adversely affect either the apprehension, or the trial,
7 of the alleged assailant;

8 (2) A claim in which the offense allegedly perpetrated against the victim is rape, sodomy
9 or sexual abuse and it is determined by the **department or division of workers' compensation**
10 to be in the best interest of the victim or of the victim's dependents that the information be kept
11 confidential or that the public be excluded from the hearing;

12 (3) A claim in which the victim or alleged assailant is a minor; or

13 (4) A claim in which any record or report obtained by the **department or division of**
14 **workers' compensation**, the confidentiality of which is protected by any other law, shall remain
15 confidential subject to such law.

16 2. The **department and division of workers' compensation**, by separate order, may
17 close any record, report or hearing if it determines that the interest of justice would be frustrated
18 rather than furthered if such record or report was disclosed or if the hearing was open to the
19 public.

595.040. 1. Acceptance of any compensation under sections 595.010 to 595.075 shall
2 subrogate this state, to the extent of such compensation paid, to any right or right of action
3 accruing to the claimant or to the victim to recover payments on account of losses resulting from
4 the crime with respect to which the compensation has been paid. The attorney general may
5 enforce the subrogation, and he shall bring suit to recover from any person to whom
6 compensation is paid, to the extent of the compensation actually paid under sections 595.010 to
7 595.075, any amount received by the claimant from any source exceeding the actual loss to the
8 victim.

9 2. The [division] **department** shall have a lien on any compensation received by the
10 claimant, in addition to compensation received under provisions of sections 595.010 to 595.075,
11 for injuries or death resulting from the incident upon which the claim is based. The claimant
12 shall retain, as trustee for the [division] **department**, so much of the recovered funds as
13 necessary to reimburse the Missouri crime victims' compensation fund to the extent that
14 compensation was awarded to the claimant from that fund.

15 3. If a claimant initiates any legal proceeding to recover restitution or damages related
16 to the crime upon which the claim is based, or if the claimant enters into negotiations to receive
17 any proceeds in settlement of a claim for restitution or damages related to the crime, the claimant
18 shall give the [division] **department** written notice within fifteen days of the filing of the action
19 or entering into negotiations. The [division] **department** may intervene in the proceeding of a
20 complainant to recover the compensation awarded. If a claimant fails to give such written notice
21 to the [division] **department** within the stated time period, or prior to any attempt by claimant

22 to reach a negotiated settlement of claims for recovery of damages related to the crime upon
23 which the claim is based, the [division's] **department's** right of subrogation to receive or recover
24 funds from claimant, to the extent that compensation was awarded by the [division] **department**,
25 shall not be reduced in any amount or percentage by the costs incurred by claimant attributable
26 to such legal proceedings or settlement, including, but not limited to, attorney's fees,
27 investigative cost or cost of court. If such notice is given, attorney fees may be awarded in an
28 amount not to exceed fifteen percent of the amount subrogated to the [division] **department**.

29 4. Whenever compensation is awarded to a claimant who is entitled to restitution from
30 a criminal defendant, the [division] **department** may initiate restitution hearings in such criminal
31 proceedings or intervene in the same. The [division] **department** shall be entitled to receive
32 restitution in such proceedings to the extent compensation was awarded; provided, however, the
33 [division] **department** shall be exempt from the payment of any fees or other charges for the
34 recording of restitution orders in the offices of the judges of probate. The claimant shall notify
35 this [division] **department** when restitution is ordered. Failure to notify the [division]
36 **department** will result in possible forfeiture of any amount already received from the [division]
37 **department**.

38 5. Whenever the [division] **department** shall deem it necessary to protect, maintain or
39 enforce the [division's] **department's** right to subrogation or to exercise any of its powers or to
40 carry out any of its duties or responsibilities, the attorney general may initiate legal proceedings
41 or intervene in legal proceedings as the [division's] **department's** legal representative.

595.045. 1. There is established in the state treasury the "Crime Victims' Compensation
2 Fund". A surcharge of seven dollars and fifty cents shall be assessed as costs in each court
3 proceeding filed in any court in the state in all criminal cases including violations of any county
4 ordinance or any violation of criminal or traffic laws of the state, including an infraction and
5 violation of a municipal ordinance; except that no such fee shall be collected in any proceeding
6 in any court when the proceeding or the defendant has been dismissed by the court or when costs
7 are to be paid by the state, county, or municipality. A surcharge of seven dollars and fifty cents
8 shall be assessed as costs in a juvenile court proceeding in which a child is found by the court
9 to come within the applicable provisions of subdivision (3) of subsection 1 of section 211.031,
10 RSMo.

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

15 3. The director of revenue shall deposit annually the amount of two hundred fifty
16 thousand dollars to the state forensic laboratory account administered by the department of public

17 safety to provide financial assistance to defray expenses of crime laboratories if such analytical
18 laboratories are registered with the federal Drug Enforcement Agency or the Missouri department
19 of health and senior services. Subject to appropriations made therefor, such funds shall be
20 distributed by the department of public safety to the crime laboratories serving the courts of this
21 state making analysis of a controlled substance or analysis of blood, breath or urine in relation
22 to a court proceeding.

23 4. The remaining funds collected under subsection 1 of this section shall be denoted to
24 the payment of an annual appropriation for the administrative and operational costs of the office
25 for victims of crime and, if a statewide automated crime victim notification system is established
26 pursuant to section 650.310, RSMo, to the monthly payment of expenditures actually incurred
27 in the operation of such system. Additional remaining funds shall be subject to the following
28 provisions:

29 (1) On the first of every month, the director of revenue or the director's designee shall
30 determine the balance of the funds in the crime victims' compensation fund available to satisfy
31 the amount of compensation payable pursuant to sections 595.010 to 595.075, excluding sections
32 595.050 and 595.055;

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

37 5. The director of revenue or such director's designee shall at least monthly report the
38 moneys paid pursuant to this section into the crime victims' compensation fund and the services
39 to victims fund to the [division of workers' compensation and the] department of public safety[,
40 respectively].

41 6. The moneys collected by clerks of municipal courts pursuant to subsection 1 of this
42 section shall be collected and disbursed as provided by sections 488.010 to 488.020, RSMo.
43 Five percent of such moneys shall be payable to the city treasury of the city from which such
44 funds were collected. The remaining ninety-five percent of such moneys shall be payable to the
45 director of revenue. The funds received by the director of revenue pursuant to this subsection
46 shall be distributed as follows:

47 (1) On the first of every month, the director of revenue or the director's designee shall
48 determine the balance of the funds in the crime victims' compensation fund available to satisfy
49 the amount of compensation payable pursuant to sections 595.010 to 595.075, excluding sections
50 595.050 and 595.055;

51 (2) Beginning on September 1, 2004, and on the first of each month the director of
52 revenue or the director's designee shall deposit fifty percent of the balance of funds available to

53 the credit of the crime victims' compensation fund and fifty percent to the services to victims'
54 fund established in section 595.100.

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

58 8. In addition to the moneys collected pursuant to subsection 1 of this section, the court
59 shall enter a judgment in favor of the state of Missouri, payable to the crime victims'
60 compensation fund, of sixty-eight dollars upon a plea of guilty or a finding of guilt for a class
61 A or B felony; forty-six dollars upon a plea of guilty or finding of guilt for a class C or D felony;
62 and ten dollars upon a plea of guilty or a finding of guilt for any misdemeanor under Missouri
63 law except for those in chapter 252, RSMo, relating to fish and game, chapter 302, RSMo,
64 relating to drivers' and commercial drivers' license, chapter 303, RSMo, relating to motor vehicle
65 financial responsibility, chapter 304, RSMo, relating to traffic regulations, chapter 306, RSMo,
66 relating to watercraft regulation and licensing, and chapter 307, RSMo, relating to vehicle
67 equipment regulations. Any clerk of the court receiving moneys pursuant to such judgments
68 shall collect and disburse such crime victims' compensation judgments in the manner provided
69 by sections 488.010 to 488.020, RSMo. Such funds shall be payable to the state treasury and
70 deposited to the credit of the crime victims' compensation fund.

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

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

82 11. The state courts administrator shall include in the annual report required by section
83 476.350, RSMo, the circuit court caseloads and the number of crime victims' compensation
84 judgments entered.

85 12. All awards made to injured victims under sections 595.010 to 595.105 and all
86 appropriations for administration of sections 595.010 to 595.105, except sections 595.050 and
87 595.055, shall be made from the crime victims' compensation fund. Any unexpended balance
88 remaining in the crime victims' compensation fund at the end of each biennium shall not be

89 subject to the provision of section 33.080, RSMo, requiring the transfer of such unexpended
90 balance to the ordinary revenue fund of the state, but shall remain in the crime victims'
91 compensation fund. In the event that there are insufficient funds in the crime victims'
92 compensation fund to pay all claims in full, all claims shall be paid on a pro rata basis. If there
93 are no funds in the crime victims' compensation fund, then no claim shall be paid until funds
94 have again accumulated in the crime victims' compensation fund. When sufficient funds become
95 available from the fund, awards which have not been paid shall be paid in chronological order
96 with the oldest paid first. In the event an award was to be paid in installments and some
97 remaining installments have not been paid due to a lack of funds, then when funds do become
98 available that award shall be paid in full. All such awards on which installments remain due
99 shall be paid in full in chronological order before any other postdated award shall be paid. Any
100 award pursuant to this subsection is specifically not a claim against the state, if it cannot be paid
101 due to a lack of funds in the crime victims' compensation fund.

102 13. When judgment is entered against a defendant as provided in this section and such
103 sum, or any part thereof, remains unpaid, there shall be withheld from any disbursement,
104 payment, benefit, compensation, salary, or other transfer of money from the state of Missouri to
105 such defendant an amount equal to the unpaid amount of such judgment. Such amount shall be
106 paid forthwith to the crime victims' compensation fund and satisfaction of such judgment shall
107 be entered on the court record. Under no circumstances shall the general revenue fund be used
108 to reimburse court costs or pay for such judgment. The director of the department of corrections
109 shall have the authority to pay into the crime victims' compensation fund from an offender's
110 compensation or account the amount owed by the offender to the crime victims' compensation
111 fund, provided that the offender has failed to pay the amount owed to the fund prior to entering
112 a correctional facility of the department of corrections.

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

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

118 16. [Any gifts, contributions, grants or federal funds specifically given to the division
119 for the benefit of victims of crime shall be credited to the crime victims' compensation fund.
120 Payment or expenditure of moneys in such funds shall comply with any applicable federal crime
121 victims' compensation laws, rules, regulations or other applicable federal guidelines.] **The**
122 **department may receive gifts and contributions for the benefit of crime victims. Such gifts**
123 **and contributions shall be credited to the crime victims' compensation fund and used solely**
124 **for compensating victims under the provisions of sections 595.010 to 595.075.**

595.060. **1.** The director shall promulgate rules and regulations necessary to implement
2 the provisions of sections 595.010 to [595.070] **595.075** as provided in this section and chapter
3 536, RSMo. In the performance of its functions under sections 595.010 to [595.070] **595.075**,
4 the division of **workers' compensation** is authorized to promulgate rules pursuant to chapter
5 536, RSMo, prescribing the procedures to be followed in the filing of applications and the
6 proceedings under sections 595.010 to [595.070] **595.075**. [No rule or portion of a rule
7 promulgated under the authority of this chapter shall become effective unless it has been
8 promulgated pursuant to the provisions of section 536.024, RSMo.]

9 **2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**
10 **that is created under the authority delegated in this section shall become effective only if**
11 **it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**
12 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**
13 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**
14 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**
15 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**
16 **adopted after August 28, 2008, shall be invalid and void.**

[384.031. Within thirty days after the placing of any surplus lines
2 insurance, each surplus lines licensee shall file with the director a written report,
3 on a form prescribed by the director, which shall be kept confidential, regarding
4 the insurance with the director, including the following:
5 (1) The name and address of the insured;
6 (2) The identity of the insurer or insurers;
7 (3) A description of the subject and location of the risk;
8 (4) The amount of premium charged for the insurance; and
9 (5) Such other pertinent information as the director may reasonably
10 require.]

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