

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 12
97TH GENERAL ASSEMBLY

0184H.04C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 56.807, 488.026, 559.100, 559.105, 570.120, 600.042, 600.044, and 600.090, RSMo, and to enact in lieu thereof eleven new sections relating to judicial procedures, with penalty provisions, an effective date for certain sections, and an emergency clause for certain sections.

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

Section A. Sections 56.807, 488.026, 559.100, 559.105, 570.120, 600.042, 600.044, and
2 600.090, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as
3 sections 56.807, 488.026, 537.865, 559.100, 559.105, 570.120, 600.042, 600.044, 600.052,
4 600.053, and 600.090, to read as follows:

56.807. 1. Beginning August 28, 1989, and continuing monthly thereafter until August
2 27, 2003, the funds for prosecuting attorneys and circuit attorneys provided for in subsection 2
3 of this section shall be paid from county or city funds.

4 2. Beginning August 28, 1989, and continuing monthly thereafter until August 27, 2003,
5 each county treasurer shall pay to the system the following amounts to be drawn from the general
6 revenues of the county:

7 (1) For counties of the third and fourth classification except as provided in subdivision
8 (3) of this subsection, three hundred seventy-five dollars;

9 (2) For counties of the second classification, five hundred forty-one dollars and sixty-
10 seven cents;

11 (3) For counties of the first classification, counties which pursuant to section 56.363
12 elect to make the position of prosecuting attorney a full-time position after August 28, 2001, or
13 whose county commission has elected a full-time retirement benefit pursuant to subsection 3 of

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

14 section 56.363, and the city of St. Louis, one thousand two hundred ninety-one dollars and sixty-
15 seven cents.

16 3. Beginning August 28, 1989, and continuing until August 27, 2003, the county
17 treasurer shall at least monthly transmit the sums specified in subsection 2 of this section to the
18 Missouri office of prosecution services for deposit to the credit of the "Missouri Prosecuting
19 Attorneys and Circuit Attorneys' Retirement System Fund", which is hereby created. All moneys
20 held by the state treasurer on behalf of the system shall be paid to the system within ninety days
21 after August 28, 1993. Moneys in the Missouri prosecuting attorneys and circuit attorneys'
22 retirement system fund shall be used only for the purposes provided in sections 56.800 to 56.840
23 and for no other purpose.

24 4. Beginning August 28, 2003, the funds for prosecuting attorneys and circuit attorneys
25 provided for in this section shall be paid from county or city funds and the surcharge established
26 in this section and collected as provided by this section and sections 488.010 to 488.020.

27 5. **(1)** Beginning August 28, 2003, each county treasurer shall pay to the system the
28 following amounts to be drawn from the general revenues of the county:

29 [(1)] **(a)** For counties of the third and fourth classification except as provided in
30 [subdivision (3)] **paragraph (c)** of this [subsection] **subdivision**, one hundred eighty-seven
31 dollars;

32 [(2)] **(b)** For counties of the second classification, two hundred seventy-one dollars;

33 [(3)] **(c)** For counties of the first classification, counties which pursuant to section 56.363
34 elect to make the position of prosecuting attorney a full-time position after August 28, 2001, or
35 whose county commission has elected a full-time retirement benefit pursuant to subsection 3 of
36 section 56.363, and the city of St. Louis, six hundred forty-six dollars.

37 **(2) Beginning August 28, 2013, the county contribution set forth in paragraphs (a)**
38 **to (c) of subdivision (1) of this subsection shall be adjusted in accordance with the following**
39 **schedule based upon the prosecuting attorneys and circuit attorneys' retirement system's**
40 **annual actuarial valuation report. If the system's funding ratio is:**

41 **(a) One hundred twenty percent or more, no monthly sum shall be transmitted;**

42 **(b) More than one hundred ten percent but less than one hundred twenty percent,**
43 **the monthly sum transmitted shall be reduced fifty percent;**

44 **(c) At least ninety percent and up to and including one hundred ten percent, the**
45 **monthly sum transmitted shall remain the same;**

46 **(d) At least eighty percent and less than ninety percent, the monthly sum**
47 **transmitted shall be increased fifty percent; and**

48 **(e) Less than eighty percent, the monthly sum transmitted shall be increased one**
49 **hundred percent.**

50 6. Beginning August 28, 2003, the county treasurer shall at least monthly transmit the
51 sums specified in subsection 5 of this section to the Missouri office of prosecution services for
52 deposit to the credit of the Missouri prosecuting attorneys and circuit attorneys' retirement system
53 fund. Moneys in the Missouri prosecuting attorneys and circuit attorneys' retirement system fund
54 shall be used only for the purposes provided in sections 56.800 to 56.840, and for no other
55 purpose.

56 7. Beginning August 28, 2003, the following surcharge for prosecuting attorneys and
57 circuit attorneys shall be collected and paid as follows:

58 (1) There shall be assessed and collected a surcharge of four dollars in all criminal cases
59 filed in the courts of this state including violation of any county ordinance [or] , any violation
60 of criminal or traffic laws of this state, including infractions, **and against any person who pled**
61 **guilty and paid a fine through a fine collection center**, but no such surcharge shall be assessed
62 when the costs are waived or are to be paid by the state, county, or municipality or when a
63 criminal proceeding or the defendant has been dismissed by the court [or against any person who
64 has pled guilty and paid their fine pursuant to subsection 4 of section 476.385]. For purposes of
65 this section, the term "county ordinance" shall include any ordinance of the city of St. Louis;

66 (2) The clerk responsible for collecting court costs in criminal cases shall collect and
67 disburse such amounts as provided by sections 488.010 to 488.026. Such funds shall be payable
68 to the prosecuting attorneys and circuit attorneys' retirement fund. Moneys credited to the
69 prosecuting attorneys and circuit attorneys' retirement fund shall be used only for the purposes
70 provided for in sections 56.800 to 56.840 and for no other purpose.

71 8. The board may accept gifts, donations, grants and bequests from private or public
72 sources to the Missouri prosecuting attorneys and circuit attorneys' retirement system fund.

73 9. No state moneys shall be used to fund section 56.700 and sections 56.800 to 56.840
74 unless provided for by law.

 488.026. As provided by section 56.807, there shall be assessed and collected a
2 surcharge of four dollars in all criminal cases filed in the courts of this state, including violations
3 of any county ordinance [or] , any violation of criminal or traffic laws of this state, including
4 infractions, **or against any person who pled guilty and paid a fine through a fine collection**
5 **center**, but no such surcharge shall be assessed when the costs are waived or are to be paid by
6 the state, county, or municipality or when a criminal proceeding or the defendant has been
7 dismissed by the court [or against any person who has pled guilty and paid their fine pursuant
8 to subsection 4 of section 476.385]. For purposes of this section, the term "county ordinance"
9 shall include any ordinance of the city of St. Louis. The clerk responsible for collecting court
10 costs in criminal cases shall collect and disburse such amounts as provided by sections 488.010

11 to 488.020. Such funds shall be payable to the prosecuting attorneys and circuit attorneys'
12 retirement fund.

**537.865. An attorney appointed by the court to serve as counsel for an indigent
2 defendant in a criminal case without compensation shall be immune from civil liability,
3 including causes of action for malpractice, for discretionary acts or omissions committed
4 during the course of the representation so long as the actions or omissions are taken in
5 good faith and are not performed with reckless disregard. Immunity from civil liability
6 shall not apply to conduct that is willfully wrong or performed with malice or corruption.**

559.100. 1. The circuit courts of this state shall have power, herein provided, to place
2 on probation or to parole persons convicted of any offense over which they have jurisdiction,
3 except as otherwise provided in sections 195.275 to 195.296, section 558.018, section 559.115,
4 section 565.020, sections 566.030, 566.060, 566.067, 566.151, and 566.213, section 571.015,
5 and subsection 3 of section 589.425.

6 2. The circuit court shall have the power to revoke the probation or parole previously
7 granted and commit the person to the department of corrections. The circuit court shall
8 determine any conditions of probation or parole for the defendant that it deems necessary to
9 ensure the successful completion of the probation or parole term, including the extension of any
10 term of supervision for any person while on probation or parole. The circuit court may require
11 that the defendant pay restitution for his crime. The probation or parole may be revoked for
12 failure to pay restitution or for failure to conform his behavior to the conditions imposed by the
13 circuit court. The circuit court may, in its discretion, credit any period of probation or parole as
14 time served on a sentence.

15 **3. Restitution, whether court ordered as provided in subsection 2 of this section or
16 agreed to by the parties, or as enforced under section 558.011, shall be paid through the
17 office of the prosecuting attorney or circuit attorney. Nothing in this section shall prohibit
18 the prosecuting attorney or circuit attorney from contracting with or utilizing another
19 entity for the collection of restitution and costs under this section. The circuit court en
20 banc shall approve the use of any contractor or entity selected by the prosecuting attorney
21 for the collection of restitution and costs. When ordered by the court, interest shall be
22 allowed under subsection 1 of section 408.040. In addition to all other costs and fees
23 allowed by law, each prosecuting attorney or circuit attorney who takes any action to
24 collect restitution shall collect from the person paying restitution an administrative
25 handling cost. The cost shall be twenty-five dollars for restitution less than one hundred
26 dollars and fifty dollars for restitution of one hundred dollars but less than two hundred
27 fifty dollars. For restitution of two hundred fifty dollars or more an additional fee of ten
28 percent of the total restitution shall be assessed, with a maximum fee for administrative**

29 **handling costs not to exceed seventy-five dollars total. In addition to the administrative**
30 **handling costs, an installment cost shall be assessed in the amount of two dollars per**
31 **installment, excepting the first installment, until such total amount of restitution is paid in**
32 **full. Notwithstanding the provisions of sections 50.525 to 50.745, the costs provided for in**
33 **this subsection shall be deposited by the county treasurer into a separate interest-bearing**
34 **fund to be expended by the prosecuting attorney or circuit attorney. This fund shall be**
35 **known as the "Administrative Handling Cost Fund", and it shall be the fund for deposits**
36 **under this section and under section 570.120. The funds shall be expended, upon warrants**
37 **issued by the prosecuting attorney or circuit attorney directing the treasurer to issue**
38 **checks thereon, only for purposes related to that authorized by subsection 4 of this section.**
39 **Notwithstanding the provisions of any other law, in addition to the administrative handling**
40 **cost, the prosecuting attorney or circuit attorney shall collect an additional cost of five**
41 **dollars per each crime victim to whom restitution is paid for deposit into the Missouri**
42 **office of prosecution services fund established in subsection 2 of section 56.765. All moneys**
43 **collected under this section which are payable to the Missouri office of prosecution services**
44 **fund shall be transmitted at least monthly by the county treasurer to the director of**
45 **revenue who shall deposit the amount collected to the credit of the Missouri office of**
46 **prosecution services fund under the procedure established under subsection 2 of section**
47 **56.765. As used in this subsection, "crime victim" means any natural person or their**
48 **survivors or legal guardians, the estate of a deceased person, a for-profit corporation or**
49 **business entity, a nonprofit corporation or entity, a charitable entity, or any governmental**
50 **body or a political subdivision thereof.**

51 **4. The moneys deposited in the fund may be used by the prosecuting attorney or**
52 **circuit attorney for office supplies, postage, books, training, office equipment, capital**
53 **outlay, expenses of trial and witness preparation, additional employees for the staff of the**
54 **prosecuting or circuit attorney, employees' salaries, and for other lawful expenses incurred**
55 **by the prosecuting or circuit attorney in the operation of that office.**

56 **5. This fund may be audited by the state auditor's office or the appropriate**
57 **auditing agency.**

58 **6. If the moneys collected and deposited into this fund are not totally expended**
59 **annually, then the unexpended balance shall remain in the fund and the balance shall be**
60 **kept in the fund to accumulate from year to year.**

61 **7. Nothing in this section shall be construed to prohibit a crime victim from**
62 **pursuing other lawful remedies against a defendant for restitution.**

559.105. 1. Any person who has been found guilty [of] or has pled guilty to [a violation
2 of subdivision (2) of subsection 1 of section 569.080 or paragraph (a) of subdivision (3) of

3 subsection 3 of section 570.030] **an offense** may be ordered by the court to make restitution to
4 the victim for the victim's losses due to such offense. Restitution pursuant to this section shall
5 include, but not be limited to[, the following:

6 (1)] a victim's reasonable expenses to participate in the prosecution of the crime[;

7 (2) A victim's payment for any repairs or replacement of the motor vehicle, watercraft,
8 or aircraft; and

9 (3) A victim's costs associated with towing or storage fees for the motor vehicle caused
10 by the acts of the defendant].

11 2. No person ordered by the court to pay restitution pursuant to this section shall be
12 released from probation until such restitution is complete. If full restitution is not made within
13 the original term of probation, the court shall order the maximum term of probation allowed for
14 such offense.

15 3. Any person eligible to be released on parole [for a violation of subdivision (2) of
16 subsection 1 of section 569.080 or paragraph (a) of subdivision (3) of subsection 3 of section
17 570.030 may] **shall** be required, as a condition of parole, to make restitution pursuant to this
18 section. The board of probation and parole shall not release any person from any term of parole
19 for such offense until the person has completed such restitution, or until the maximum term of
20 parole for such offense has been served.

21 **4. The court may set an amount of restitution to be paid by the defendant. Said**
22 **amount may be taken from the inmate's account at the department of corrections while the**
23 **defendant is incarcerated. Upon conditional release or parole, if any amount of such court-**
24 **ordered restitution is unpaid, the balance of the unpaid restitution may be collected as a**
25 **condition of conditional release or parole by the prosecuting attorney or circuit attorney**
26 **under section 559.100. The prosecuting attorney or circuit attorney may refer any failure**
27 **to make such restitution as a condition of conditional release or parole to the parole board**
28 **for enforcement.**

570.120. 1. A person commits the crime of passing a bad check when:

2 (1) With purpose to defraud, the person makes, issues or passes a check or other similar
3 sight order or any other form of presentment involving the transmission of account information
4 for the payment of money, knowing that it will not be paid by the drawee, or that there is no such
5 drawee; or

6 (2) The person makes, issues, or passes a check or other similar sight order or any other
7 form of presentment involving the transmission of account information for the payment of
8 money, knowing that there are insufficient funds in or on deposit with that account for the
9 payment of such check, sight order, or other form of presentment involving the transmission of
10 account information in full and all other checks, sight orders, or other forms of presentment

11 involving the transmission of account information upon such funds then outstanding, or that
12 there is no such account or no drawee and fails to pay the check or sight order or other form of
13 presentment involving the transmission of account information within ten days after receiving
14 actual notice in writing that it has not been paid because of insufficient funds or credit with the
15 drawee or because there is no such drawee.

16 2. As used in subdivision (2) of subsection 1 of this section, "actual notice in writing"
17 means notice of the nonpayment which is actually received by the defendant. Such notice may
18 include the service of summons or warrant upon the defendant for the initiation of the
19 prosecution of the check or checks which are the subject matter of the prosecution if the
20 summons or warrant contains information of the ten-day period during which the instrument may
21 be paid and that payment of the instrument within such ten-day period will result in dismissal
22 of the charges. The requirement of notice shall also be satisfied for written communications
23 which are tendered to the defendant and which the defendant refuses to accept.

24 3. The face amounts of any bad checks passed pursuant to one course of conduct within
25 any ten-day period may be aggregated in determining the grade of the offense.

26 4. Passing bad checks is a class A misdemeanor, unless:

27 (1) The face amount of the check or sight order or the aggregated amounts is five
28 hundred dollars or more; or

29 (2) The issuer had no account with the drawee or if there was no such drawee at the time
30 the check or order was issued, in which cases passing bad checks is a class C felony.

31 5. (1) In addition to all other costs and fees allowed by law, each prosecuting attorney
32 or circuit attorney who takes any action pursuant to the provisions of this section shall collect
33 from the issuer in such action an administrative handling cost. The cost shall be twenty-five
34 dollars for checks of less than one hundred dollars, and fifty dollars for checks of one hundred
35 dollars but less than two hundred fifty dollars. For checks of two hundred fifty dollars or more
36 an additional fee of ten percent of the face amount shall be assessed, with a maximum fee for
37 administrative handling costs not to exceed seventy-five dollars total. Notwithstanding the
38 provisions of sections 50.525 to 50.745, the costs provided for in this subsection shall be
39 deposited by the county treasurer into a separate interest-bearing fund to be expended by the
40 prosecuting attorney or circuit attorney. **This fund shall be known as the "Administrative
41 Handling Cost Fund", and it shall be the fund for deposits under this section and under
42 section 559.100.** The funds shall be expended, upon warrants issued by the prosecuting attorney
43 or circuit attorney directing the treasurer to issue checks thereon, only for purposes related to that
44 previously authorized in this section. Any revenues that are not required for the purposes of this
45 section may be placed in the general revenue fund of the county or city not within a county.
46 Notwithstanding any law to the contrary, in addition to the administrative handling cost, the

47 prosecuting attorney or circuit attorney shall collect an additional cost of five dollars per check
48 for deposit to the Missouri office of prosecution services fund established in subsection 2 of
49 section 56.765. All moneys collected pursuant to this section which are payable to the Missouri
50 office of prosecution services fund shall be transmitted at least monthly by the county treasurer
51 to the director of revenue who shall deposit the amount collected pursuant to the credit of the
52 Missouri office of prosecution services fund under the procedure established pursuant to
53 subsection 2 of section 56.765.

54 (2) The moneys deposited in the fund may be used by the prosecuting or circuit attorney
55 for office supplies, postage, books, training, office equipment, capital outlay, expenses of trial
56 and witness preparation, additional employees for the staff of the prosecuting or circuit attorney,
57 employees' salaries, and for other lawful expenses incurred by the circuit or prosecuting attorney
58 in operation of that office.

59 (3) This fund may be audited by the state auditor's office or the appropriate auditing
60 agency.

61 (4) If the moneys collected and deposited into this fund are not totally expended
62 annually, then the unexpended balance shall remain in said fund and the balance shall be kept
63 in said fund to accumulate from year to year.

64 6. Notwithstanding any other provision of law to the contrary:

65 (1) In addition to the administrative handling costs provided for in subsection 5 of this
66 section, the prosecuting attorney or circuit attorney may collect from the issuer, in addition to the
67 face amount of the check, a reasonable service charge, which along with the face amount of the
68 check, shall be turned over to the party to whom the bad check was issued;

69 (2) If a check that is dishonored or returned unpaid by a financial institution is not
70 referred to the prosecuting attorney or circuit attorney for any action pursuant to the provisions
71 of this section, the party to whom the check was issued, or his or her agent or assignee, or a
72 holder, may collect from the issuer, in addition to the face amount of the check, a reasonable
73 service charge, not to exceed twenty-five dollars, plus an amount equal to the actual charge by
74 the depository institution for the return of each unpaid or dishonored instrument.

75 7. When any financial institution returns a dishonored check to the person who deposited
76 such check, it shall be in substantially the same physical condition as when deposited, or in such
77 condition as to provide the person who deposited the check the information required to identify
78 the person who wrote the check.

600.042. 1. The director shall:

2 (1) Direct and supervise the work of the deputy directors and other state public defender
3 office personnel appointed pursuant to this chapter; and he and the chief deputy director may

4 participate in the trial and appeal of criminal actions at the request of the defender or upon order
5 of the commission;

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

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

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

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

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

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

28 (8) With approval of the commission, promulgate necessary rules, regulations and
29 instructions consistent with this chapter defining the organization of his office and the
30 responsibilities of public defenders, assistant public defenders, deputy public defenders and other
31 personnel;

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

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

39 (11)] **In the event that the prosecuting attorney does not collect and enforce liens**
40 **and other judgments owed to the state for services rendered by the state public defender**
41 **system as set forth in subsection 3 of section 600.093, then with the approval and on behalf**
42 of the commission, contract with private attorneys for the collection and enforcement of liens and
43 other judgments owed to the state for services rendered by the state public defender system;

44 **(11) Contract out for legal services with private attorneys all nonsexual class C and**
45 **D felonies, all nonsexual misdemeanor cases, all traffic cases, and all probation violation**
46 **cases. The office of administration shall handle the bidding process for all such contracts**
47 **in accordance with the provisions of section 600.052;**

48 **(12) Shall establish district offices, the boundaries of which shall coincide with**
49 **existing judicial circuits. Any district office may contain more than one judicial circuit**
50 **within its boundaries, but in no event shall any district office boundary include any**
51 **geographic region of a judicial circuit without including the entire judicial circuit.**

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

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

60 4. **Except as provided in subsection 5 of this section,** the director and defenders shall
61 provide legal services to an eligible person:

62 (1) Who is detained or charged with a **class A or B** felony, including appeals from a
63 conviction in such a case;

64 (2) [Who is detained or charged with a misdemeanor which will probably result in
65 confinement in the county jail upon conviction, including appeals from a conviction in such a
66 case;

67 (3) Who is detained or charged with a violation of probation or parole;

68 **(4)] Who is detained or charged with any sexual offense;**

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

72 **[(5)] (4) For whom the federal constitution or the state constitution requires the**
73 **appointment of counsel; and**

74 [(6)] (5) For whom, in a case in which he faces a loss or deprivation of liberty, any law
75 of this state requires the appointment of counsel; however, the director and the defenders shall
76 not be required to provide legal services to persons charged with violations of county or
77 municipal ordinances.

78 5. The director may:

79 (1) [Delegate the legal representation of any person to any member of the state bar of
80 Missouri;

81 (2)] Designate persons as representatives of the director for the purpose of making
82 indigency determinations and assigning counsel;

83 **(2) Contract out for legal services with private attorneys direct appeals of any cases**
84 **handled by public defenders.**

85 **6. The director and defenders shall not provide legal services or contract out for**
86 **legal services with private attorneys for the following types of cases:**

87 **(1) Motions under Rule 24.035 or 29.15 claiming ineffective assistance of counsel;**
88 **or**

89 **(2) Representation of any crime victim or witness.**

90 **7. The public defender shall provide legal services in those cases in which a private**
91 **attorney who has a contract for the provision of legal services under section 600.052 has**
92 **a conflict of interest.**

 600.044. **Except as provided in subdivision (2) of subsection 5 of section 600.042,**
2 a defender who undertakes to represent an eligible person shall continue to do so at every stage
3 of the case or proceeding, including the filing of a motion for new trial and the processing,
4 briefing, and argument of an appeal, until the defender is relieved of his duties by the director
5 or is permitted by a court to withdraw.

600.052. The office of administration shall award contracts under this section
2 **through a competitive bidding process with the approval of the presiding judge of the**
3 **judicial circuit where the services are rendered. The competitive bidding process shall be**
4 **designed to award contracts to the lowest and best bidder. In determining the lowest and**
5 **best bidder, priority shall be given to bidders who exhibit experience in criminal law,**
6 **demonstrate the capacity to provide effective representation in all assigned cases, and carry**
7 **sufficient malpractice insurance. The office of administration shall also administer all**
8 **contracts made by the director, including contracts for cases which are conflicts of the**
9 **public defender. The office of administration shall establish a quality assurance program,**
10 **with the assistance of each presiding circuit judge, to ensure that defendants are being**
11 **provided quality representation by private attorneys awarded contracts under this section.**

12 **The office of administration may promulgate rules and regulations necessary to carry out**
13 **the provisions of this subsection.**

600.053. 18 C.S.R. 10-4.010 is hereby invalidated and is null and void. The public
2 **defender may not refuse to provide representation required under this chapter without**
3 **prior approval from a court of competent jurisdiction.**

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

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

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

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

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

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

29 (4) The prosecuting attorney may compromise and make settlement of, or, with the
30 concurrence of the director, forego any claims for services performed for any person pursuant

31 to this chapter whenever the financial circumstances of such person are such that the best
32 interests of the state will be served by such action.

33 **(5) The public defender shall pay the prosecuting or circuit attorney a collection**
34 **fee of twenty percent of the funds collected by the prosecuting or circuit attorney on behalf**
35 **of the public defender. This collection fee shall be deposited in the same manner as**
36 **collection fees are deposited for delinquent taxes under section 136.150 as follows: the**
37 **collection fee shall be deposited in the county treasury of the circuit or prosecuting**
38 **attorney who collected such funds, with one-half of such collection fee being designated for**
39 **the use of the prosecuting or circuit attorney's office and one-half to be expended as the**
40 **county shall determine.**

41 3. [The commission may contract with] **If the prosecuting attorney does not take**
42 **action to enforce the judgment within ninety days of entry, then the commission may**
43 **contract with private collection agencies or** private attorneys for the collection and
44 enforcement of liens and other judgments owed to the state for services rendered by the state
45 public defender system.

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

50 5. **Except as provided in subdivision (5) of subsection 2 of this section,** funds
51 collected pursuant to this section and section 600.093 shall be credited to the "Legal Defense and
52 Defender Fund" which is hereby created. The moneys credited to the legal defense and defender
53 fund shall be used for the purpose of training public defenders, assistant public defenders, deputy
54 public defenders and other personnel pursuant to subdivision (7) of subsection 1 of section
55 600.042, and may be used to pay for expert witness fees, the costs of depositions, travel expenses
56 incurred by witnesses in case preparation and trial, expenses incurred for changes of venue and
57 for other lawful expenses as authorized by the public defender commission.

58 6. The state treasurer shall be the custodian of the legal defense and defender fund,
59 moneys in the legal defense and defender fund shall be deposited the same as are other state
60 funds, and any interest accruing to the legal defense and defender fund shall be added to the legal
61 defense and defender fund. The legal defense and defender fund shall be subject to audit, the
62 same as other state funds and accounts, and shall be protected by the general bond given by the
63 state treasurer.

64 7. Upon the request of the director of the office of state public defender, the
65 commissioner of administration shall approve disbursements from the legal defense and defender
66 fund. The legal defense and defender fund shall be funded annually by appropriation, but any

67 unexpended balance in the fund at the end of the appropriation period not in excess of one
68 hundred and fifty thousand dollars shall be exempt from the provisions of section 33.080,
69 specifically as they relate to the transfer of fund balances to the general revenue, and shall be the
70 amount of the fund at the beginning of the appropriation period next immediately following.

Section B. Sections 600.042, 600.044, 600.052, and 600.090 of this act shall become
2 effective July 1, 2014.

Section C. Because immediate action is necessary to ensure the quality of representation
2 of indigent criminal defendants the enactment of sections 537.865 and 600.053 of this act is
3 deemed necessary for the immediate preservation of the public health, welfare, peace, and safety,
4 and is hereby declared to be an emergency act within the meaning of the constitution, and the
5 enactment of sections 537.865 and 600.053 of this act shall be in full force and effect upon its
6 passage and approval.

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