

FIRST REGULAR SESSION

HOUSE COMMITTEE BILL NO. 8

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MCGAUGH.

2376H.02I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 514.040, 515.575, and 515.635, RSMo, and to enact in lieu thereof thirty-six new sections relating to civil proceedings, with penalty provisions and a delayed effective date for certain sections.

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

Section A. Sections 514.040, 515.575, and 515.635, RSMo, are repealed and thirty-six new sections enacted in lieu thereof, to be known as sections 340.285, 407.1750, 407.1755, 407.1760, 407.1765, 407.1770, 407.1775, 407.1780, 472.400, 472.405, 472.410, 472.415, 472.420, 472.425, 472.430, 472.435, 472.440, 472.445, 472.450, 472.455, 472.460, 472.465, 472.470, 472.475, 472.480, 472.485, 472.490, 475.084, 507.250, 507.253, 507.256, 507.259, 507.262, 514.040, 515.575, and 515.635, to read as follows:

340.285. All actions against veterinarians treating animals and any other entity providing veterinary services for animals, and all employees of any of the foregoing acting in the course and scope of their employment, for damages for malpractice, negligence, error, or mistake related to the veterinary care of animals shall be brought within two years from the date of occurrence of the act of neglect complained of, except that:

(1) In cases in which the act of neglect complained of is introducing and negligently permitting any foreign object to remain within the body of a living animal, the action shall be brought within two years from the date of the discovery of such alleged negligence or from the date on which the owner of an animal in the exercise of ordinary care should have discovered such alleged negligence, whichever date occurs first; and

(2) In cases in which the act of neglect complained of is the negligent failure to inform, the action shall be brought within two years from the date of the discovery of such

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.

13 **alleged negligent failure to inform or from the date on which the owner of the animal in**
 14 **the exercise of ordinary care should have discovered such alleged negligent failure to**
 15 **inform, whichever date first occurs; except that, no such action shall be brought for any**
 16 **negligent failure to inform about the results of medical tests performed more than two**
 17 **years before August 28, 2017. For purposes of this subdivision, the act of neglect based on**
 18 **the negligent failure to inform the owner of the animal of the results of medical tests shall**
 19 **not include the act of informing the owner of the animal of erroneous test results.**

407.1750. Sections 407.1750 to 407.1780 may be known and cited as the "Missouri
 2 **Child Protection Registry Act".**

407.1755. As used in sections 407.1750 to 407.1780, the following terms shall mean:

- 2 (1) **"Contact point", any electronic identification to which messages can be sent,**
 3 **including any of the following:**
 - 4 (a) **An instant message identity;**
 - 5 (b) **A wireless telephone, personal digital assistant, pager number, or any other**
 6 **similar wireless communications device;**
 - 7 (c) **A facsimile number;**
 - 8 (d) **An electronic mail address; or**
 - 9 (e) **Other electronic addresses subject to rules promulgated by the attorney general;**
- 10 (2) **"Controlled substance", the same as defined in section 195.010;**
- 11 (3) **"Gambling", the same as defined in section 572.010;**
- 12 (4) **"Internet domain name", a globally unique, hierarchical reference to an**
 13 **internet host or service assigned through centralized internet authorities, comprised of a**
 14 **series of character strings separated by periods with the right-most string specifying the**
 15 **top of the hierarchy;**
- 16 (5) **"Intoxicating liquor", the same as defined in section 311.020;**
- 17 (6) **"Minor", an individual under the age of eighteen years;**
- 18 (7) **"Person", an individual, corporation, association, partnership, or any other**
 19 **legal entity;**
- 20 (8) **"Pornographic for minors", the same as defined in section 573.010;**
- 21 (9) **"Registry", the Missouri child protection registry established in section**
 22 **407.1760;**
- 23 (10) **"Tobacco product", the same as defined in section 149.011;**
- 24 (11) **"Vapor product", the same as defined in section 407.925.**

407.1760. 1. The attorney general shall establish and operate, or contract with a
 2 **qualified third party to establish and operate, the Missouri child protection registry**
 3 **composed of a secure list of contact points belonging or accessible to minors received under**

4 this section. The attorney general or a third party administrator shall establish procedures
5 to prevent the use or disclosure of protected contact points. If the attorney general elects
6 to contract with a third party, he or she shall give due consideration to any person located
7 in this state. By April 1, 2018, the attorney general, or the vendor providing registry
8 services for the attorney general, shall conduct a third-party audit to certify the security
9 of the registry. Follow-up third-party audits on the registry system shall be conducted at
10 least annually.

11 2. A parent, guardian, individual, school, or other institution or entity primarily
12 serving minor children that is responsible for one or more contact points to which a minor
13 may have access may register such contact points with the attorney general. Schools or
14 other institutions or entities primarily serving minor children may make one registration
15 for all contact points of the entity, and such registration may include the entity's internet
16 domain name. No fee or charge shall be assessed or incurred by a person, guardian,
17 individual, school, or other institution or entity primarily serving minor children
18 registering a contact point under sections 407.1750 to 407.1780.

19 3. A registration under this section shall be for not more than three years. If the
20 contact point is established for a specific minor, the registration shall expire the year the
21 minor turns eighteen years of age. A registration can be revoked or renewed by the
22 registrant upon notification to the attorney general. Upon registering such contact points,
23 the registrant shall be provided the following disclosure either electronically or in writing,
24 which shall be conspicuous and shall be in at least twelve-point font to read as follows: "No
25 solution is completely secure. The most effective way to protect children on the Internet
26 is to supervise use and review all e-mail messages and other correspondence. Under law,
27 theft of a contact point from the Child Protection Registry is a class A misdemeanor.
28 While every attempt will be made to secure the Child Protection Registry, registrants and
29 their guardians should be aware that their contact points may be at a greater risk of being
30 misappropriated by marketers who choose to disobey the law."

31 4. The registry created under this section and the information submitted to the
32 attorney general shall be confidential and not subject to public disclosure.

407.1765. 1. Notwithstanding subsection 4 of this section, no person shall send,
2 cause to be sent, or conspire with a third party to send a message to a contact point that has
3 been registered for more than thirty calendar days with the attorney general if the primary
4 purpose of the message is to directly or indirectly advertise or otherwise link to a message
5 that advertises gambling, intoxicating liquor, tobacco products, vapor products, controlled
6 substances, or material pornographic for minors. The sending of a message described in
7 this subsection is not prohibited if, prior to sending the message, the sender has obtained

8 from an age-verified adult an affirmative statement of consent to receive the message at an
9 adult-designated contact point. To comply with this subsection, the sender shall:

10 (1) Verify the person making the affirmative statement is of legal age by inspecting,
11 in a face-to-face transaction, a valid government-issued photo identification with proof of
12 age;

13 (2) Obtain a written record stating that a recipient has consented to receive the type
14 of message described in this subsection. The consent form required under this subdivision
15 shall be signed by the recipient. The sender shall retain the consent form and make it
16 available for verification as may be required under subdivision (4) of this subsection;

17 (3) Include notice to the recipient in all messages allowed under this subsection that
18 he or she may rescind his or her consent and provide an opportunity for the recipient to
19 opt out of the receiving of any future messages; and

20 (4) Notify the attorney general that the sender intends to send messages as allowed
21 under this subsection. The attorney general may implement procedures to verify that the
22 sender is in compliance with this subsection.

23 2. The attorney general shall establish a mechanism for senders of messages to
24 contact points to verify compliance with the registry. The mechanism to verify compliance
25 with the registry shall be established by rules promulgated by the attorney general. A
26 person desiring to send a message described in subsection 1 of this section shall use the
27 mechanism created under this subsection to ensure compliance with this section. A person
28 desiring to send a message described in subsection 1 of this section shall pay the attorney
29 general a fee for access to the mechanism required under this subsection. The fee shall be
30 seven-tenths of one cent and shall be based on the number of contact points checked
31 against the registry for each time a contact point is checked. The fees collected under this
32 section shall be credited to the following:

33 (1) Eighty-five percent of the fees to the children's protection registry fund created
34 in section 407.1770; and

35 (2) Not less than fifteen percent of the fees to the attorney general to cover the cost
36 of investigating, enforcing, and defending sections 407.1750 to 407.1780. The attorney
37 general may be reimbursed from the fund created under section 407.1770 for any costs
38 incurred under sections 407.1750 to 407.1780 that exceed the fees credited under this
39 subdivision.

40 3. The consent of a minor or third party to receive the message is not a defense to
41 a violation of this section.

42 4. An internet service provider does not violate this section by solely transmitting
43 a message across the network of the internet service provider.

407.1770. There is hereby created in the state treasury the "Child Protection Registry Fund", which shall consist of moneys collected under section 407.1765. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund and moneys in the fund shall be used solely by the attorney general for the purpose of the administration of sections 407.1750 to 407.1780, and for the promotion, investigation, enforcement, and defense of sections 407.1750 to 407.1780. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

407.1775. 1. A person commits the offense of tampering with the Missouri child protection registry if he or she:

(1) Uses information obtained from the child protection registry to violate sections 407.1750 to 407.1780;

(2) Improperly obtains or attempts to obtain contact points from the Missouri child protection registry; or

(3) Uses, or transfers to a third party to use, information from the Missouri child protection registry to send a communication.

The offense of tampering with the Missouri child protection registry shall be a class A misdemeanor.

2. A civil action based on the violation of section 407.1765 may be brought by an authorized individual or the registrant of a contact point on behalf of a minor who has received a message in violation of section 407.1765, or by the attorney general. A civil action may also be brought by a person through whose facilities the message was transmitted in violation of section 407.1765. In any action brought under this section, the prevailing party may be awarded reasonable attorney's fees. A person bringing an action under this section may recover one of the following:

(1) Actual damages, including reasonable attorney's fees; or

(2) In lieu of actual damages, recover the lesser of the following:

(a) Five thousand dollars per message received by a recipient or transmitted; or

(b) Two hundred fifty thousand dollars for each day the violation occurs.

3. If the attorney general has reason to believe that a person has violated sections 407.1750 to 407.1780, the attorney general may investigate the business transactions of that person. The attorney general may require the person to appear at a reasonable time and

26 place, to give information under oath, and to produce such documents and evidence
 27 necessary to determine whether the person is in compliance with the requirements of
 28 sections 407.1750 to 407.1780. Any civil penalties collected by the attorney general under
 29 this section shall be paid to the county school fund under article IX, section 7 of the
 30 Constitution of Missouri.

31 4. It is a defense to an action brought under this section that a person reasonably
 32 relied on the mechanism established by the attorney general under subsection 2 of section
 33 407.1765.

407.1780. Any rule or portion of a rule, as that term is defined in section 536.010
 2 that is created under the authority delegated in sections 407.1750 to 407.1775 shall become
 3 effective only if it complies with and is subject to all of the provisions of chapter 536, and,
 4 if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any
 5 of the powers vested with the general assembly pursuant to chapter 536, to review, to delay
 6 the effective date, or to disapprove and annul a rule are subsequently held
 7 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
 8 after August 28, 2017, shall be invalid and void.

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

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

- 2 (1) "Access", includes view, marshal, manage, copy, distribute, or delete;
- 3 (2) "Account", an arrangement under a terms-of-service agreement in which a
 4 custodian carries, maintains, processes, receives, or stores a digital asset of the user or
 5 provides goods or services to the user;
- 6 (3) "Agent", an attorney-in-fact granted authority under a durable or nondurable
 7 power of attorney;
- 8 (4) "Carries", engages in the transmission of electronic communications;
- 9 (5) "Catalogue of electronic communications", information that identifies each
 10 person with which a user has had an electronic communication, the time and date of the
 11 communication, and the electronic address of the person;
- 12 (6) "Conservator", a person appointed by a court to have the care and custody of
 13 the estate of a minor or a disabled person. A "limited conservator" is one whose duties or
 14 powers are limited. The term "conservator", as used in sections 472.400 to 472.490,
 15 includes limited conservator unless otherwise specified or apparent from the context;
- 16 (7) "Content of an electronic communication", information concerning the
 17 substance or meaning of the communication which:
 18 (a) Has been sent or received by a user;

- 19 **(b) Is in electronic storage by a custodian providing an electronic communication**
20 **service to the public or is carried or maintained by a custodian providing a remote-**
21 **computing service to the public; and**
- 22 **(c) Is not readily accessible to the public;**
- 23 **(8) "Court", any court with competent jurisdiction within this state;**
- 24 **(9) "Custodian", a person that carries, maintains, processes, receives, or stores a**
25 **digital asset of a user;**
- 26 **(10) "Designated recipient", a person chosen by a user using an online tool to**
27 **administer digital assets of the user;**
- 28 **(11) "Digital asset", an electronic record in which an individual has a right or**
29 **interest. The term does not include an underlying asset or liability unless the asset or**
30 **liability is itself an electronic record;**
- 31 **(12) "Electronic", relating to technology having electrical, digital, magnetic,**
32 **wireless, optical, electromagnetic, or similar capabilities;**
- 33 **(13) "Electronic communication", has the same meaning as set forth in 18 U.S.C.**
34 **Section 2510(12), as amended;**
- 35 **(14) "Electronic communication service", a custodian that provides to a user the**
36 **ability to send or receive an electronic communication;**
- 37 **(15) "Fiduciary", an original, additional, or successor personal representative,**
38 **conservator, agency, or trustee;**
- 39 **(16) "Information", data, text, images, videos, sounds codes, computer programs,**
40 **software, databases, or the like;**
- 41 **(17) "Online tool", an electronic service provided by a custodian that allows the**
42 **user, in an agreement distinct from the terms-of-service agreement between the custodian**
43 **and user, to provide directions for disclosure or nondisclosure of digital assets to a third**
44 **person;**
- 45 **(18) "Person", an individual, estate, trust, business or nonprofit entity, public**
46 **corporation, government or governmental subdivision, agency, instrumentality, or other**
47 **legal entity;**
- 48 **(19) "Personal representative", executor or administrator, including an**
49 **administrator with the will annexed, an administrator de bonis non, an administrator**
50 **pending contest, an administrator during minority or absence, and any other type of**
51 **administrator of the estate of a decedent whose appointment is permitted, or any person**
52 **who performs substantially the same function under the law of Missouri, including without**
53 **limitation an affiant who has filed a small estate affidavit under section 473.097. It does**
54 **not include an executor de son tort;**

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

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

59 (22) "Protected person", an individual for whom a conservator has been appointed,
60 including a protectee, a disabled person, and an individual for whom an application for the
61 appointment of a conservator is pending;

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

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

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

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

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

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

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

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

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

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

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

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

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

472.415. 1. A user may use an online tool to direct the custodian to disclose to a
2 designated recipient or not to disclose some or all of the user's digital assets, including the

3 content of electronic communications. If the online tool allows the user to modify or delete
4 a direction at all times, a direction regarding disclosure using an online tool overrides a
5 contrary direction by the user in a will, trust, power of attorney, or other record.

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

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

472.420. 1. Sections 472.400 to 472.490 shall not change or impair a right of a
2 custodian or a user under a terms-of-service agreement to access and use digital assets of
3 the user.

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

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

472.425. 1. When disclosing digital assets of a user under sections 472.400 to
2 472.490 the custodian may at its sole discretion:

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

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

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

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

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

14 4. If a user directs or a fiduciary requests a custodian to disclose under sections
15 472.400 to 472.490 some, but not all, of the user's digital assets, the custodian need not
16 disclose the assets if segregation of the assets would impose an undue burden on the

17 **custodian. If the custodian believes the direction or request imposes an undue burden, the**
 18 **custodian or fiduciary may seek an order from the court to disclose:**

- 19 (1) **A subset limited by date of the user's digital assets;**
- 20 (2) **All of the user's digital assets to the fiduciary or designated recipient;**
- 21 (3) **None of the user's digital assets; or**
- 22 (4) **All of the user's digital assets to the court for review in camera.**

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

- 5 (1) **A written request for disclosure in physical or electronic form;**
- 6 (2) **A certified copy of the death certificate of the user;**
- 7 (3) **A certified copy of the letters testamentary or letters of administration of the**
 8 **representative or a certified copy of the certificate of clerk in connection with a small estate**
 9 **affidavit or court order;**
- 10 (4) **Unless the user provided direction using an online tool, then in the case of user**
 11 **consent to disclosure, a copy of the user's will, trust, power of attorney, or other record**
 12 **evidencing the user's consent to disclosure of the content of electronic communications;**
 13 **and**
- 14 (5) **If requested by the custodian for the purpose of identifying the correct account**
 15 **of the user:**
 - 16 (a) **A number, username, address, or other unique subscriber or account identifier**
 17 **assigned by the custodian to identify the user's account;**
 - 18 (b) **Evidence linking the account to the user; or**
 - 19 (c) **A finding by the court that:**
 - 20 a. **The user had a specific account with the custodian, identifiable by the**
 21 **information specified in paragraph (a) of this subdivision;**
 - 22 b. **Disclosure of the content of electronic communications of the user would not**
 23 **violate 18 U.S.C. Section 2701 et seq., as amended, 47 U.S.C. Section 222, as amended, or**
 24 **other applicable law;**
 - 25 c. **Unless the user provided direction using an online tool, the user consented to**
 26 **disclosure of the content of electronic communications; or**
 - 27 d. **Disclosure of the content of electronic communications of the user is reasonably**
 28 **necessary for administration of the estate.**

472.435. Unless the user prohibited disclosure of digital assets or the court directs
 2 **otherwise, a custodian shall disclose to the personal representative of the estate of a**

3 deceased user a catalogue of electronic communications sent or received by the user and
4 digital assets, other than the content of electronic communications, of the user, if the
5 representative gives the custodian:

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

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

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

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

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

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

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

18 (d) A finding by the court that:

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

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

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

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

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

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

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

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

14 (b) Evidence linking the account to the principal.

472.445. Unless otherwise ordered by the court, directed by the principal, or
2 provided by a power of attorney, a custodian shall disclose to an agent with specific

3 authority over digital assets or general authority to act on behalf of a principal a catalogue
4 of electronic communications sent or received by the principal and digital assets, other
5 than the content of electronic communications, of the principal if the agent gives the
6 custodian:

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

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

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

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

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

16 (b) Evidence linking the account to the principal.

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

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

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

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

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

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

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

16 (b) Evidence linking the account to the trust.

472.460. Unless otherwise ordered by the court, directed by the user, or provided
2 in a trust, a custodian shall disclose, to a trustee that is not an original user of an account,

3 a catalogue of electronic communications sent or received by an original or successor user
4 and stored, carried, or maintained by the custodian in an account of the trust and any
5 digital assets, other than the content of electronic communications, in which the trust has
6 a right or interest if the trustee gives the custodian:

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

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

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

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

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

16 (b) Evidence linking the account to the trust.

472.465. 1. After an opportunity for a hearing under Missouri conservatorship law,
2 the court may grant a conservator access to the digital assets of a protected person.

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

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

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

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

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

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

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

472.470. 1. The legal duties imposed on a fiduciary charged with managing
2 tangible property apply to the management of digital assets, including:

3 **(1) The duty of care;**

4 **(2) The duty of loyalty; and**

5 **(3) The duty of confidentiality.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

472.475. 1. Not later than sixty days after receipt of the information required
 2 under sections 472.430 to 472.470, a custodian shall comply with a request under sections
 3 472.400 to 472.490 from a fiduciary or designated recipient to disclose digital assets or
 4 terminate an account. If the custodian fails to comply, the fiduciary or designated recipient
 5 may apply to the court for an order directing compliance.

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

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

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

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

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

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

20 (3) Contains a finding required by law other than as provided under sections
 21 472.400 to 472.490.

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

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

472.485. Sections 472.400 to 472.490 modify, limit, or supersede the Electronic
 2 Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but do
 3 not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or

4 authorize electronic delivery of any of the notices described in Section 103(b) of that act,
5 15 U.S.C. Section 7003(b).

2 472.490. If any provision of sections 472.400 to 472.490 or the application of such
3 sections to any person or circumstance is held invalid, the invalidity does not affect other
4 provisions or application of sections 472.400 to 472.490 which can be given effect without
5 the invalid provision or application, and to this end the provisions of sections 472.400 to
6 472.490 are severable.

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

2 507.250. As used in sections 507.250 to 507.262, the following terms shall mean:

3 (1) "Litigation", any civil action or proceeding commenced, maintained, or pending
4 in any state or federal court;

5 (2) "Security", an undertaking to assure payment to the party for whose benefit
6 the undertaking is required to be furnished for the party's reasonable expenses.
7 Reasonable expenses shall include attorneys' fees and shall not be limited to taxable costs
8 incurred in connection with a litigation instituted, caused, or maintained by a vexatious
9 litigant;

10 (3) "Vexatious litigant", litigant:

11 (a) Has commenced or maintained at least five litigations, other than in a small
12 claims court, in the immediately preceding seven-year period that have been finally
13 determined adversely to the person or unjustifiably permitted to remain pending at least
14 two years without having been brought to trial or hearing;

15 (b) Repeatedly relitigates or attempts to relitigate either the validity of the
16 determination against the same defendant or defendants as to whom the litigation was
17 finally determined or the cause of action, claim, controversy, or any of the issues of fact or
18 law determined or concluded by the final determination against the same defendant or
19 defendants as to whom the litigation was finally determined;

20 (c) Repeatedly files unmeritorious motions, pleadings, or other papers; conducts
21 unnecessary discovery; or engages in other tactics that are frivolous or solely intended to
22 cause unnecessary delay; or

23 (d) Has previously been declared to be a vexatious litigant by any state or federal
24 court of record in any action or proceeding based upon the same or substantially similar
facts, transactions, or occurrences.

507.253. 1. In any litigation pending in any court of this state, a defendant may move the court at any time until final judgment is entered, upon notice and hearing, for an order requiring the plaintiff to furnish security or for an order dismissing the litigation under subsection 2 of section 507.256. The motion for an order requiring the plaintiff to furnish security shall be based upon the ground, and supported by a showing, that the plaintiff is a vexatious litigant and that there is not a reasonable probability that he or she will prevail in the litigation against the moving defendant.

2. At the hearing upon the motion, the court shall consider any evidence as may be material to the ground of the motion, both written or oral and by witnesses or affidavit. Except for an order dismissing the litigation under subsection 2 of section 507.256, no determination made by the court in determining or ruling upon the motion shall be a determination of any issue in the litigation.

3. If a motion is filed prior to trial under this section, the litigation shall be stayed and the moving defendant need not plead until ten days after the motion has been denied or, if the motion is granted, until ten days after he or she has received written notice that the required security has been furnished.

507.256. 1. Except as provided in subsection 2 of this section, if after hearing the evidence on the motion the court determines that the plaintiff is a vexatious litigant and that there is no reasonable probability that the plaintiff will prevail in the litigation against the moving defendant, the court shall order the plaintiff to furnish security in such amount and within such time as specified by the court. If security is not furnished as required, the litigation shall be dismissed in the favor of the defendant.

2. If after hearing evidence on the motion the court determines that the litigation has no merit and has been filed for the purpose to harass or delay, the court shall dismiss the litigation.

3. A defendant may make a motion for relief in the alternative under subsection 1 or 2 of this section and shall combine all grounds for relief into one motion.

507.259. 1. In addition to any other relief provided by law, the court may, on its own motion or the motion of any party, enter a prefiling order which prohibits a vexatious litigant from filing any new litigation in the courts of this state pro se without first obtaining leave of the presiding judge of the court where the litigation is proposed to be filed. Disobedience of the order by a vexatious litigant shall be punished as contempt of court.

2. The presiding judge shall permit the filing of the litigation only if it appears that the litigation has merit and has not been filed for the purpose to harass or delay. In

9 addition, the presiding judge may condition the filing of the litigation upon the furnishing
10 of security for the benefit of the defendants as provided under section 507.256.

11 3. The clerk may not file any litigation presented by a vexatious litigant subject to
12 a prefiling order unless the vexatious litigant first obtains an order from the presiding
13 judge permitting the filing. If the clerk mistakenly files the litigation without the order,
14 any party may file with the clerk and serve on the plaintiff and other parties a notice
15 stating that the plaintiff is a vexatious litigant subject to a prefiling order under subsection
16 1 of this section. The filing of the notice shall automatically stay the litigation. The
17 litigation shall be automatically dismissed unless the plaintiff obtains an order from the
18 presiding judge permitting the filing within ten days of the filing of the notice. If the
19 presiding judge issues an order permitting the filing, the stay of the litigation shall remain
20 in effect until ten days after the defendants are served with a copy of the order.

21 4. The presiding judge of a court may designate another judge of the same court
22 to act on his or her behalf in exercising the authority and responsibilities established in this
23 section.

24 5. The clerk shall also provide the state courts administrator a copy of any prefiling
25 orders issued under subsection 1 of this section. The state courts administrator shall
26 maintain a record of vexatious litigants subject to those prefiling orders and shall annually
27 disseminate a list of those persons to the clerks of the courts of this state.

28 6. For the purposes of this section, "litigation" also includes any petition,
29 application, or motion other than a discovery motion.

30 7. Nothing in this section shall apply to cases brought under chapters 451 to 455.

507.262. 1. A vexatious litigant subject to a prefiling order under section 507.259
2 may file an application to vacate the prefiling order. The application shall be filed in the
3 court that entered the prefiling order, either in the action in which the prefiling order was
4 entered or in conjunction with a request to the presiding judge to file new litigation under
5 section 507.259. The application shall be made before the judge that entered the order, or
6 if that judge is unavailable, then it shall be made before the presiding judge or his or her
7 designee.

8 2. A vexatious litigant whose application under subsection 1 of this section was
9 denied shall not be permitted to file another application for one year after the date of the
10 denial of the previous application.

11 3. A court may vacate a prefiling order and order the removal of a vexatious
12 litigant's name from the state courts administrator list of vexatious litigants subject to
13 prefiling orders upon a showing of a material change in the facts upon which the order was
14 granted and that it is just in vacating the order.

514.040. 1. Except as provided in subsection 3 of this section, if any court shall, before
2 or after the commencement of any suit pending before it, be satisfied that the plaintiff is a poor
3 person, and unable to prosecute his or her suit, and pay all or any portion of the costs and
4 expenses thereof, such court may, in its discretion, permit him or her to commence and prosecute
5 his or her action as a poor person, and thereupon such poor person shall have all necessary
6 process and proceedings as in other cases, without fees, tax or charge as the court determines the
7 person cannot pay; and the court may assign to such person counsel, who, as well as all other
8 officers of the court, shall perform their duties in such suit without fee or reward as the court may
9 excuse; but if judgment is entered for the plaintiff, costs shall be recovered, which shall be
10 collected for the use of the officers of the court.

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

16 3. Where a party is represented in a civil action by a legal aid society or a legal services
17 or other nonprofit organization funded in whole or substantial part by moneys appropriated by
18 the general assembly of the state of Missouri, which has as its primary purpose the furnishing
19 of legal services to indigent persons, by a law school clinic which has as its primary purpose
20 educating law students through furnishing legal services to indigent persons, or by private
21 counsel working on behalf of or under the auspices of such society, all costs and expenses,
22 **except guardian ad litem fees**, related to the prosecution of the suit may be waived without the
23 necessity of a motion and court approval, provided that a determination has been made by such
24 society or organization that such party is unable to pay the costs, fees and expenses necessary to
25 prosecute or defend the action, and that a certification that such determination has been made is
26 filed with the clerk of the court. **In the event an action involving the appointment of a**
27 **guardian ad litem goes to trial, an updated certification shall be filed prior to the trial**
28 **commencing. The waiver of guardian ad litem fees for a party who has filed a certification**
29 **may be reviewed by the court at the conclusion of the action upon the motion of any party**
30 **requesting the court to apportion guardian ad litem fees.**

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

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

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

3 (1) The commencement or continuation, including the issuance, employment, or service
4 of process, of a judicial, administrative, or other action or proceeding against the debtor that was
5 or could have been commenced before the entry of the order of appointment, or to recover a
6 claim against the debtor that arose before the entry of the order of appointment;

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

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

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

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

16 2. The stay shall automatically expire as to the acts specified in subdivisions (1), (2), and
17 ~~[(3)]~~ (5) of subsection 1 of this section sixty days after the entry of the order of appointment
18 unless before the expiration of the sixty-day period the debtor or receiver, for good cause shown,
19 obtains an order of the court extending the stay, after notice and a hearing. A person whose
20 action or proceeding is stayed by motion to the court may seek relief from the stay for good cause
21 shown. Any judgment obtained against the debtor or estate property following the entry of the
22 order of appointment is not a lien against estate property unless the receivership is terminated
23 prior to a conveyance of the property against which the judgment would otherwise constitute a
24 lien.

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

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

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

30 (3) Any act to perfect or to maintain or continue the perfection of an interest in estate
31 property pursuant to any generally applicable Missouri law that permits perfection of an interest
32 in property to be effective against an entity that acquires rights in such property before the date
33 of perfection. Such right to perfect an interest in estate property includes any act to perfect an

34 interest in purchase money collateral pursuant to sections 400.9-301 to 400.9-339, perfection of
35 a lien that may be placed against real property under the provisions of chapter 429, or the
36 assertion of a right to continue in possession of any estate property that is in the possession of
37 a person entitled to retain possession of such property pending payment for work performed with
38 respect to such property. If perfection of an interest would otherwise require seizure of the
39 property involved or the commencement of an action, the perfection shall instead be
40 accomplished by filing, and by serving upon the receiver, or receiver's counsel, if any, notice of
41 the interest within the time fixed by law for seizure or commencement;

42 (4) The commencement or continuation of an action or proceeding by a governmental
43 unit to enforce its police or regulatory power;

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

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

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

60 (8) Any action pending in a court other than that in which the receiver is appointed until
61 transcription of the order appointing the receiver or extending the stay is made to the other court
62 in which an action against the debtor is pending.

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

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

Section B. The enactment of sections 407.1750, 407.1755, 407.1760, 407.1765,
2 407.1770, 407.1775, and 407.1780 of this act shall become effective January 1, 2018.

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