

SENATE COMMITTEE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2064
AND
HOUSE COMMITTEE SUBSTITUTE NO. 2
FOR
HOUSE BILL NO. 1886
AN ACT

To repeal sections 193.265, 214.330, 287.200, 287.470, 287.610, 287.615, 287.812, 287.835, 347.143, 435.014, 452.355, 455.010, 455.035, 455.513, 456.950, 469.401, 469.402, 469.403, 469.405, 469.409, 469.411, 469.413, 469.415, 469.417, 469.419, 469.421, 469.423, 469.425, 469.427, 469.429, 469.431, 469.432, 469.433, 469.435, 469.437, 469.439, 469.441, 469.443, 469.445, 469.447, 469.449, 469.451, 469.453, 469.455, 469.457, 469.459, 469.461, 469.463, 469.465, 469.467, 477.650, 478.001, 487.110, 488.040, 488.426, 488.2300, 491.075, 492.304, 494.455, 509.520, 537.528, 559.125, 566.151, 567.030, 595.045, and 621.045, RSMo, and to enact in lieu thereof one hundred thirty new sections relating to civil proceedings, with penalty provisions.

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

Section A. Sections 193.265, 214.330, 287.200, 287.470, 287.610, 287.615, 287.812, 287.835, 347.143, 435.014, 452.355, 455.010, 455.035, 455.513, 456.950, 469.401, 469.402, 469.403, 469.405, 469.409, 469.411, 469.413, 469.415, 469.417, 469.419, 469.421, 469.423, 469.425, 469.427, 469.429, 469.431, 469.432, 469.433, 469.435, 469.437, 469.439, 469.441, 469.443, 469.445,

469.447, 469.449, 469.451, 469.453, 469.455, 469.457, 469.459, 469.461, 469.463, 469.465, 469.467, 477.650, 478.001, 487.110, 488.040, 488.426, 488.2300, 491.075, 492.304, 494.455, 509.520, 537.528, 559.125, 566.151, 567.030, 595.045, and 621.045, RSMo, are repealed and one hundred thirty new sections enacted in lieu thereof, to be known as sections 193.265, 214.330, 287.200, 287.470, 287.610, 287.615, 287.812, 287.835, 347.143, 435.300, 435.303, 435.306, 435.309, 435.312, 452.355, 453.700, 453.702, 453.704, 453.706, 453.708, 453.710, 453.712, 453.714, 453.716, 453.718, 453.720, 453.722, 453.724, 453.726, 453.728, 453.730, 453.732, 453.734, 453.736, 453.738, 453.740, 453.742, 454.1050, 455.010, 455.035, 455.513, 456.950, 469.399, 469.401, 469.402, 469.403, 469.404, 469.405, 469.413, 469.415, 469.417, 469.419, 469.421, 469.423, 469.425, 469.427, 469.429, 469.431, 469.432, 469.433, 469.435, 469.437, 469.439, 469.441, 469.443, 469.445, 469.446, 469.447, 469.449, 469.451, 469.453, 469.455, 469.456, 469.457, 469.459, 469.462, 469.463, 469.464, 469.465, 469.467, 469.471, 469.473, 469.475, 469.477, 469.479, 469.481, 469.483, 469.485, 469.487, 474.540, 474.542, 474.544, 474.546, 474.548, 474.550, 474.552, 474.554, 474.556, 474.558, 474.560, 474.562, 474.564, 474.600, 475.063, 476.1025, 477.650, 478.001, 487.110, 488.040, 488.426, 488.2300, 491.075, 492.304, 494.455, 509.520, 510.500, 510.503, 510.506, 510.509, 510.512, 510.515, 510.518, 510.521, 534.157, 537.529, 559.125, 566.151, 567.030, 595.045, and 621.045, to read as follows:

193.265. 1. For the issuance of a certification or copy of a death record, the applicant shall pay a fee of fourteen dollars for the first certification or copy and a fee of eleven dollars for each additional copy ordered at that time. For the issuance of a certification or copy of a birth, marriage, divorce, or fetal death record, the applicant shall pay a fee of fifteen dollars. No fee shall be required or collected for a certification of birth,

death, or marriage if the request for certification is made by the children's division, the division of youth services, a guardian ad litem, or a juvenile officer on behalf of a child or person under twenty-one years of age who has come under the jurisdiction of the juvenile court under section 211.031. All fees collected under this subsection shall be deposited to the state department of revenue. Beginning August 28, 2004, for each vital records fee collected, the director of revenue shall credit four dollars to the general revenue fund, five dollars to the children's trust fund, one dollar shall be credited to the endowed care cemetery audit fund, one dollar for each certification or copy of death records to the Missouri state coroners' training fund established in section 58.208, and three dollars for the first copy of death records and five dollars for birth, marriage, divorce, and fetal death records shall be credited to the Missouri public health services fund established in section 192.900. Money in the endowed care cemetery audit fund shall be available by appropriation to the division of professional registration to pay its expenses in administering sections 214.270 to 214.410. All interest earned on money deposited in the endowed care cemetery audit fund shall be credited to the endowed care cemetery fund. Notwithstanding the provisions of section 33.080 to the contrary, money placed in the endowed care cemetery audit fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds three times the amount of the appropriation from the endowed care cemetery audit fund for the preceding fiscal year. The money deposited in the public health services fund under this section shall be deposited in a separate account in the fund, and moneys in such account, upon appropriation, shall be used to automate

and improve the state vital records system, and develop and maintain an electronic birth and death registration system. For any search of the files and records, when no record is found, the state shall be entitled to a fee equal to the amount for a certification of a vital record for a five-year search to be paid by the applicant. For the processing of each legitimation, adoption, court order or recording after the registrant's twelfth birthday, the state shall be entitled to a fee equal to the amount for a certification of a vital record. Except whenever a certified copy or copies of a vital record is required to perfect any claim of any person on relief, or any dependent of any person who was on relief for any claim upon the government of the state or United States, the state registrar shall, upon request, furnish a certified copy or so many certified copies as are necessary, without any fee or compensation therefor.

2. For the issuance of a certification of a death record by the local registrar, the applicant shall pay a fee of fourteen dollars for the first certification or copy and a fee of eleven dollars for each additional copy ordered at that time. For each fee collected under this subsection, one dollar shall be deposited to the state department of revenue and the remainder shall be deposited to the official city or county health agency. The director of revenue shall credit all fees deposited to the state department of revenue under this subsection to the Missouri state coroners' training fund established in section 58.208.

3. For the issuance of a certification or copy of a birth, marriage, divorce, or fetal death record, the applicant shall pay a fee of fifteen dollars; except that, in any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants, a donation of one dollar may be

collected by the local registrar over and above any fees required by law when a certification or copy of any marriage license or birth certificate is provided, with such donations collected to be forwarded monthly by the local registrar to the county treasurer of such county and the donations so forwarded to be deposited by the county treasurer into the housing resource commission fund to assist homeless families and provide financial assistance to organizations addressing homelessness in such county. The local registrar shall include a check-off box on the application form for such copies. All fees collected under this subsection, other than the donations collected in any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants for marriage licenses and birth certificates, shall be deposited to the official city or county health agency.

4. A certified copy of a death record by the local registrar can only be issued after acceptance and registration with the state registrar. The fees paid to the official county health agency shall be retained by the local agency for local public health purposes.

5. No fee under this section shall be required or collected from a parent or guardian of a homeless child or homeless youth, as defined in subsection 1 of section 167.020, or an unaccompanied youth, as defined in 42 U.S.C. Section 11434a(6), for the issuance of a certification, or copy of such certification, of birth of such child or youth. An unaccompanied youth shall be eligible to receive a certification or copy of his or her own birth record without the consent or signature of his or her parent or guardian; provided, that only one certificate under this provision shall be provided without cost to the

unaccompanied or homeless youth. For the issuance of any additional certificates, the statutory fee shall be paid.

6. (1) Notwithstanding any provision of law to the contrary, no fee shall be required or collected for a certification of birth if the request is made by a victim of domestic violence or abuse, as those terms are defined in section 455.010, and the victim provides documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a health care or mental health professional, from whom the victim has sought assistance relating to the domestic violence or abuse. Such documentation shall state that, under penalty of perjury, the employee, agent, or volunteer of a victim service provider, the attorney, or the health care or mental health professional believes the victim has been involved in an incident of domestic violence or abuse.

(2) A victim may be eligible only one time for a fee waiver under this subsection.

7. No fee shall be required or collected for a certification of birth, death, or marriage if the request for certification is made by a prosecuting attorney, a circuit attorney, or the attorney general.

214.330. 1. (1) The endowed care trust fund required by sections 214.270 to 214.410 shall be permanently set aside in trust or in accordance with the provisions of subsection 2 of this section. The trustee of the endowed care trust shall be a state or federally chartered financial institution authorized to exercise trust powers in Missouri. The contact information for a trust officer or duly appointed representative of the trustee with knowledge and access to the trust fund accounting and trust fund records must be disclosed to the office or its duly authorized representative upon request.

(2) The trust fund records, including all trust fund accounting records, shall be maintained in the state of Missouri at all times or shall be electronically stored so that the records may be made available in the state of Missouri within fifteen business days of receipt of a written request. The operator of an endowed care cemetery shall maintain a current name and address of the trustee and the records custodian for the endowed care trust fund and shall supply such information to the office, or its representative, upon request.

(3) Missouri law shall control all endowed care trust funds and the Missouri courts shall have jurisdiction over endowed care trusts regardless of where records may be kept or various administrative tasks may be performed.

2. An endowed care trust fund shall be administered in accordance with Missouri law governing trusts, including but not limited to the applicable provisions of chapters 456 and 469, except as specifically provided in this subsection or where the provisions of sections 214.270 to 214.410 provide differently, provided that a cemetery operator shall not in any circumstances be authorized to restrict, enlarge, change, or modify the requirements of this section or the provisions of chapters 456 and 469 by agreement or otherwise.

(1) Income and principal of an endowed care trust fund shall be determined under the provisions of law applicable to trusts, except that the provisions of section 469.405 shall not apply.

(2) No principal shall be distributed from an endowed care trust fund except to the extent that a unitrust election is in effect with respect to such trust under the provisions of [section 469.411] sections 469.471 to 469.487.

(3) No right to transfer jurisdiction from Missouri under section 456.1-108 shall exist for endowed care trusts.

(4) All endowed care trusts shall be irrevocable.

(5) No trustee shall have the power to terminate an endowed care trust fund under the provisions of section 456.4-414.

(6) A unitrust election made in accordance with the provisions of chapter 469 shall be made by the cemetery operator in the terms of the endowed care trust fund agreement itself, not by the trustee.

(7) No contract of insurance shall be deemed a suitable investment for an endowed care trust fund.

(8) The income from the endowed care fund may be distributed to the cemetery operator at least annually on a date designated by the cemetery operator, but no later than sixty days following the end of the trust fund year. Any income not distributed within sixty days following the end of the trust's fiscal year shall be added to and held as part of the principal of the trust fund.

3. The cemetery operator shall have the duty and responsibility to apply the income distributed to provide care and maintenance only for that part of the cemetery designated as an endowed care section and not for any other purpose.

4. In addition to any other duty, obligation, or requirement imposed by sections 214.270 to 214.410 or the endowed care trust agreement, the trustee's duties shall be the maintenance of records related to the trust and the accounting for and investment of moneys deposited by the operator to the endowed care trust fund.

(1) For the purposes of sections 214.270 to 214.410, the trustee shall not be deemed responsible for the care, the maintenance, or the operation of the cemetery, or for any other matter relating to the cemetery, or the proper expenditure of funds distributed by the trustee to the

cemetery operator, including, but not limited to, compliance with environmental laws and regulations.

(2) With respect to cemetery property maintained by endowed care funds, the cemetery operator shall be responsible for the performance of the care and maintenance of the cemetery property.

5. If the endowed care cemetery fund is not permanently set aside in a trust fund as required by subsection 1 of this section, then the funds shall be permanently set aside in an escrow account in the state of Missouri. Funds in an escrow account shall be placed in an endowed care trust fund under subsection 1 if the funds in the escrow account exceed three hundred fifty thousand dollars, unless otherwise approved by the division for good cause. The account shall be insured by the Federal Deposit Insurance Corporation or comparable deposit insurance and held in a state or federally chartered financial institution authorized to do business in Missouri and located in this state.

(1) The interest from the escrow account may be distributed to the cemetery operator at least in annual or semiannual installments, but not later than six months following the calendar year. Any interest not distributed within six months following the end of the calendar year shall be added to and held as part of the principal of the account.

(2) The cemetery operator shall have the duty and responsibility to apply the interest to provide care and maintenance only for that part of the cemetery in which burial space shall have been sold and with respect to which sales the escrow account shall have been established and not for any other purpose. The principal of such funds shall be kept intact. The cemetery operator's duties shall be the

maintenance of records and the accounting for an investment of moneys deposited by the operator to the escrow account. For purposes of sections 214.270 to 214.410, the administrator of the office of endowed care cemeteries shall not be deemed to be responsible for the care, maintenance, or operation of the cemetery. With respect to cemetery property maintained by cemetery care funds, the cemetery operator shall be responsible for the performance of the care and maintenance of the cemetery property owned by the cemetery operator.

(3) The division may approve an escrow agent if the escrow agent demonstrates the knowledge, skill, and ability to handle escrow funds and financial transactions and is of good moral character.

6. The cemetery operator shall be accountable to the owners of burial space in the cemetery for compliance with sections 214.270 to 214.410.

7. Excluding funds held in an escrow account, all endowed care trust funds shall be administered in accordance with an endowed care trust fund agreement, which shall be submitted to the office by the cemetery operator for review and approval. The endowed care cemetery shall be notified in writing by the office of endowed care cemeteries regarding the approval or disapproval of the endowed care trust fund agreement and regarding any changes required to be made for compliance with sections 214.270 to 214.410 and the rules and regulations promulgated thereunder.

8. All endowed care cemeteries shall be under a continuing duty to file with the office of endowed care cemeteries and to submit for prior approval any and all changes, amendments, or revisions of the endowed care trust fund agreement at least thirty days before the effective date of such change, amendment, or revision.

9. If the endowed care trust fund agreement, or any changes, amendments, or revisions filed with the office, are not disapproved by the office within thirty days after submission by the cemetery operator, the endowed care trust fund agreement, or the related change, amendment, or revision, shall be deemed approved and may be used by the cemetery operator and the trustee. Notwithstanding any other provision of this section, the office may review and disapprove an endowed care trust fund agreement, or any submitted change, amendment, or revision, after the thirty days provided herein or at any other time if the agreement is not in compliance with sections 214.270 to 214.410 or the rules promulgated thereunder. Notice of disapproval by the office shall be in writing and delivered to the cemetery operator and the trustee within ten days of disapproval.

10. Funds in an endowed care trust fund or escrow account may be commingled with endowed care funds for other endowed care cemeteries, provided that the cemetery operator and the trustee shall maintain adequate accounting records of the disbursements, contributions, and income allocated for each cemetery.

11. By accepting the trusteeship of an endowed care trust or accepting funds as an escrow agent pursuant to sections 214.270 to 214.410, the trustee or escrow agent submits personally to the jurisdiction of the courts of this state and the office of endowed care cemeteries regarding the administration of the trust or escrow account. A trustee or escrow agent shall consent in writing to the jurisdiction of the state of Missouri and the office in regards to the trusteeship or the operation of the escrow account and to the appointment of the office of secretary of state as its agent for service of process regarding any administrative or legal actions relating to the trust or the

escrow account, if it has no designated agent for service of process located in this state. Such consent shall be filed with the office prior to accepting funds pursuant to sections 214.270 to 214.410 as trustee or as an escrow agent on a form provided by the office by rule.

287.200. 1. Compensation for permanent total disability shall be paid during the continuance of such disability from the date of maximum medical improvement for the lifetime of the employee at the weekly rate of compensation in effect under this subsection on the date of the injury for which compensation is being made. The word "employee" as used in this section shall not include the injured worker's dependents, estate, or other persons to whom compensation may be payable as provided in subsection 1 of section 287.020. The amount of such compensation shall be computed as follows:

(1) For all injuries occurring on or after September 28, 1983, but before September 28, 1986, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the injured employee's average weekly earnings during the year immediately preceding the injury, as of the date of the injury; provided that the weekly compensation paid under this subdivision shall not exceed an amount equal to seventy percent of the state average weekly wage, as such wage is determined by the division of employment security, as of the July first immediately preceding the date of injury;

(2) For all injuries occurring on or after September 28, 1986, but before August 28, 1990, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the injured employee's average weekly earnings during the year immediately preceding the injury, as of the date of the injury; provided that the weekly

compensation paid under this subdivision shall not exceed an amount equal to seventy-five percent of the state average weekly wage, as such wage is determined by the division of employment security, as of the July first immediately preceding the date of injury;

(3) For all injuries occurring on or after August 28, 1990, but before August 28, 1991, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the injured employee's average weekly earnings as of the date of the injury; provided that the weekly compensation paid under this subdivision shall not exceed an amount equal to one hundred percent of the state average weekly wage;

(4) For all injuries occurring on or after August 28, 1991, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the injured employee's average weekly earnings as of the date of the injury; provided that the weekly compensation paid under this subdivision shall not exceed an amount equal to one hundred five percent of the state average weekly wage;

(5) For all injuries occurring on or after September 28, 1981, the weekly compensation shall in no event be less than forty dollars per week.

2. Permanent total disability benefits that have accrued through the date of the injured employee's death are the only permanent total disability benefits that are to be paid in accordance with section 287.230. The right to unaccrued compensation for permanent total disability of an injured employee terminates on the date of the injured employee's death in accordance with section 287.230, and does not survive to the injured employee's dependents, estate, or other persons to whom compensation might otherwise be payable.

3. (1) All claims for permanent total disability shall be determined in accordance with the facts. [When an injured employee receives an award for permanent total disability but by the use of glasses, prosthetic appliances, or physical rehabilitation the employee is restored to his or her regular work or its equivalent, the life payment mentioned in subsection 1 of this section shall be suspended during the time in which the employee is restored to his or her regular work or its equivalent.] The employer and the division shall keep the file open in the case during the lifetime of any injured employee who has received an award of permanent total disability.

(2) When an injured employee receives an award for permanent total disability but by the use of glasses, prosthetic appliances, or physical rehabilitation the employee is restored to his or her regular work or its equivalent, the life payment mentioned in subsection 1 of this section shall be suspended during the time in which the employee is restored to his or her regular work or its equivalent. In any case where the life payment is suspended under this [subsection] subdivision, the commission may at reasonable times review the case and either the employee or the employer may request an informal conference with the commission relative to the resumption of the employee's weekly life payment in the case.

(3) Upon filing of a written agreement signed by the claimant and his or her attorney, the commission shall change the name, information, or fee arrangement of the attorney or law firm associated with the claimant's case.

4. For all claims filed on or after January 1, 2014, for occupational diseases due to toxic exposure which result in a permanent total disability or death, benefits in this chapter shall be provided as follows:

(1) Notwithstanding any provision of law to the contrary, such amount as due to the employee during said employee's life as provided for under this chapter for an award of permanent total disability and death, except such amount shall only be paid when benefits under subdivisions (2) and (3) of this subsection have been exhausted;

(2) For occupational diseases due to toxic exposure, but not including mesothelioma, an amount equal to two hundred percent of the state's average weekly wage as of the date of diagnosis for one hundred weeks paid by the employer; and

(3) In cases where occupational diseases due to toxic exposure are diagnosed to be mesothelioma:

(a) For employers that have elected to accept mesothelioma liability under this subsection, an additional amount of three hundred percent of the state's average weekly wage for two hundred twelve weeks shall be paid by the employer or group of employers such employer is a member of. Employers that elect to accept mesothelioma liability under this subsection may do so by either insuring their liability, by qualifying as a self-insurer, or by becoming a member of a group insurance pool. A group of employers may enter into an agreement to pool their liabilities under this subsection. If such group is joined, individual members shall not be required to qualify as individual self-insurers. Such group shall comply with section 287.223. In order for an employer to make such an election, the employer shall provide the department with notice of such an election in a manner established by the department. The provisions of this paragraph shall expire on December 31, 2038; or

(b) For employers who reject mesothelioma under this subsection, then the exclusive remedy provisions under section 287.120 shall not apply to such liability. The

provisions of this paragraph shall expire on December 31, 2038; and

(4) The provisions of subdivision (2) and paragraph (a) of subdivision (3) of this subsection shall not be subject to suspension of benefits as provided in subsection 3 of this section; and

(5) Notwithstanding any other provision of this chapter to the contrary, should the employee die before the additional benefits provided for in subdivision (2) and paragraph (a) of subdivision (3) of this subsection are paid, the additional benefits are payable to the employee's spouse or children, natural or adopted, legitimate or illegitimate, in addition to benefits provided under section 287.240. If there is no surviving spouse or children and the employee has received less than the additional benefits provided for in subdivision (2) and paragraph (a) of subdivision (3) of this subsection the remainder of such additional benefits shall be paid as a single payment to the estate of the employee;

(6) The provisions of subdivision (1) of this subsection shall not be construed to affect the employee's ability to obtain medical treatment at the employer's expense or any other benefits otherwise available under this chapter.

5. Any employee who obtains benefits under subdivision (2) of subsection 4 of this section for acquiring asbestosis who later obtains an award for mesothelioma shall not receive more benefits than such employee would receive having only obtained benefits for mesothelioma under this section.

287.470. 1. Upon its own motion or upon the application of any party in interest on the ground of a change in condition, the commission may at any time upon a

rehearing after due notice to the parties interested review any award and on such review may make an award ending, diminishing or increasing the compensation previously awarded, subject to the maximum or minimum provided in this chapter, and shall immediately send to the parties and the employer's insurer a copy of the award. No such review shall affect such award as regards any moneys paid.

2. Upon the filing of a written agreement signed by the claimant and his or her attorney, the commission shall change the name, information, or fee arrangement of the attorney or law firm associated with the claimant's case.

287.610. 1. After August 28, 2005, the division may appoint additional administrative law judges for a maximum of forty authorized administrative law judges. Appropriations shall be based upon necessity, measured by the requirements and needs of each division office. Administrative law judges shall be duly licensed lawyers under the laws of this state. Administrative law judges shall not practice law or do law business and shall devote their whole time to the duties of their office. The director of the division of workers' compensation shall publish and maintain on the division's website the appointment dates or initial dates of service for all administrative law judges.

2. [The thirteen administrative law judges with the most years of service shall be subject to a retention vote on August 28, 2008. The next thirteen administrative law judges with the most years of service in descending order shall be subject to a retention vote on August 28, 2012. Administrative law judges appointed and not previously referenced in this subsection shall be subject to a retention vote on August 28, 2016. Subsequent retention votes shall be held every twelve years. Any administrative

law judge who has received two or more votes of no confidence under performance audits by the committee shall not receive a vote of retention.

3. The administrative law judge review committee members shall not have any direct or indirect employment or financial connection with a workers' compensation insurance company, claims adjustment company, health care provider nor be a practicing workers' compensation attorney. All members of the committee shall have a working knowledge of workers' compensation.

4. The committee shall within thirty days of completing each performance audit make a recommendation of confidence or no confidence for each administrative law judge.

5.] The administrative law judges appointed by the division shall only have jurisdiction to hear and determine claims upon original hearing and shall have no jurisdiction upon any review hearing, either in the way of an appeal from an original hearing or by way of reopening any prior award, except to correct a clerical error in an award or settlement if the correction is made by the administrative law judge within twenty days of the original award or settlement. The labor and industrial relations commission may remand any decision of an administrative law judge for a more complete finding of facts. The commission may also correct a clerical error in awards or settlements within thirty days of its final award. With respect to original hearings, the administrative law judges shall have such jurisdiction and powers as are vested in the division of workers' compensation under other sections of this chapter, and wherever in this chapter the word "commission", "commissioners" or "division" is used in respect to any original hearing, those terms shall mean the administrative

law judges appointed under this section. When a hearing is necessary upon any claim, the division shall assign an administrative law judge to such hearing. Any administrative law judge shall have power to approve contracts of settlement, as provided by section 287.390, between the parties to any compensation claim or dispute under this chapter pending before the division of workers' compensation. Any award by an administrative law judge upon an original hearing shall have the same force and effect, shall be enforceable in the same manner as provided elsewhere in this chapter for awards by the labor and industrial relations commission, and shall be subject to review as provided by section 287.480.

[6.] 3. Any of the administrative law judges employed pursuant to this section may be assigned on a temporary basis to the branch offices as necessary in order to ensure the proper administration of this chapter.

[7.] 4. All administrative law judges shall be required to participate in, on a continuing basis, specific training that shall pertain to those elements of knowledge and procedure necessary for the efficient and competent performance of the administrative law judges' required duties and responsibilities. Such training requirements shall be established by the division subject to appropriations and shall include training in medical determinations and records, mediation and legal issues pertaining to workers' compensation adjudication. Such training may be credited toward any continuing legal education requirements.

[8.] (1) The administrative law judge review committee shall conduct a performance audit of all administrative law judges every two years. The audit results, stating the committee's recommendation of confidence or no confidence of

each administrative law judge shall be sent to the governor no later than the first week of each legislative session immediately following such audit. Any administrative law judge who has received three or more votes of no confidence under two successive performance audits by the committee may have their appointment immediately withdrawn.

(2) The review committee shall consist of one member appointed by the president pro tem of the senate, one member appointed by the minority leader of the senate, one member appointed by the speaker of the house of representatives, and one member appointed by the minority leader of the house of representatives. The governor shall appoint to the committee one member selected from the commission on retirement, removal, and discipline of judges. This member shall act as a member ex officio and shall not have a vote in the committee. The committee shall annually elect a chairperson from its members for a term of one year. The term of service for all members shall be two years. The review committee members shall all serve without compensation. Necessary expenses for review committee members and all necessary support services to the review committee shall be provided by the division.]

5. The director of the division may file a complaint with the administrative hearing commission seeking to remove an administrative law judge from office for one or any combination of causes stated in subsection 6 of this section. Prior to the filing of the complaint, the director shall notify the administrative law judge in writing of the reasons for the complaint. The administrative law judge shall have ninety days from the day the complaint was made to remedy the complained of behavior if the reason for the complaint is willful neglect of duty or incompetency.

6. If the reasons for the complaint are willful neglect of duty or incompetency, and the reasons have not been remedied after ninety days, the director may file the complaint with the administrative hearing commission in the same manner as is provided by chapter 621. The director may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any administrative law judge for any one or any combination of the following causes: the administrative law judge has committed any criminal offense, regardless of whether a criminal charge has been filed; has been convicted, or has entered a plea of guilty or nolo contendere in a criminal prosecution under the laws of any state, the United States, or of any country, regardless of whether sentence is imposed or is guilty of misconduct; habitual intoxication; willful neglect of duty; corruption in office; incompetency; or has committed any act that involves moral turpitude or oppression in office.

7. After the director has filed a complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a finding by the administrative hearing commission that:

(1) The grounds, as provided in subsection 6 of this section, for disciplinary action are met, the director may, singly or in combination, issue the following disciplinary actions against the administrative law judge: removal from office, suspension from the performance of duties for a period of time, or other discipline as determined by the director. The director shall make a record of written findings of fact and conclusions of law with respect to the issues and shall put a copy of such record in the administrative law judge's permanent file; or

(2) There are no grounds for disciplinary action, the administrative law judge shall immediately resume duties and shall receive any attorney's fees due under section 536.087.

8. Notwithstanding any provision of this section to the contrary, the following events or acts by an administrative law judge are deemed to be an immediate threat to the administration of the provisions of chapter 287 and shall be considered cause for suspension with pay of the administrative law judge without notice, at the discretion of the director:

(1) A crime for which the administrative law judge is being held without bond for a period of more than fourteen days;

(2) Suspension or revocation of a license to practice law; or

(3) A declaration of incapacity by a court of competent jurisdiction.

9. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536.

287.615. 1. The division may appoint or employ such persons as may be necessary to the proper administration of this chapter. All salaries to clerical employees shall be fixed by the division and approved by the labor and industrial relations commission. Beginning January 1, 2006, the annual salary of each administrative law judge[,] and administrative law judge in charge[, and chief legal counsel] shall be as follows:

(1) [For any chief legal counsel located at the division office in Jefferson City, Missouri, compensation at two thousand dollars above eighty percent of the rate at which an associate circuit judge is compensated;

(2)] For each administrative law judge, compensation at ninety percent of the rate at which an associate division circuit judge is compensated;

[(3)] (2) For each administrative law judge in charge, compensation at the same rate as an administrative law judge plus five thousand dollars.

2. Administrative law judges' and chief administrative law judges' compensation shall be determined solely by the rate outlined in this section and shall not increase when pay raises for executive employees are appropriated.

3. The salary of the director of the division of workers' compensation shall be set by the director of the department of labor and industrial relations, but shall not be less than the salary plus two thousand dollars of an administrative law judge in charge. The appointees in each classification shall be selected as nearly as practicable in equal numbers from each of the two political parties casting the highest and the next highest number of votes for governor in the last preceding state election.

287.812. As used in sections 287.812 to 287.855, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Administrative law judge", any person appointed pursuant to section 287.610 or section 621.015, or any person who hereafter may have by law all of the powers now vested by law in administrative law judges appointed under the provisions of the workers' compensation law;

(2) "Beneficiary", a surviving spouse married to the deceased administrative law judge or legal advisor of the division of workers' compensation continuously for a period of at least two years immediately preceding the administrative law judge's or legal advisor's death and also on the day of the last termination of such person's

employment as an administrative law judge or legal advisor for the division of workers' compensation, or if there is no surviving spouse eligible to receive benefits, any minor child of the deceased administrative law judge or legal advisor, or any child of the deceased administrative law judge or legal advisor who, regardless of age, is unable to support himself because of intellectual disability, disease or disability, or any physical handicap or disability, who shall share in the benefits on an equal basis with all other beneficiaries;

(3) "Benefit", a series of equal monthly payments payable during the life of an administrative law judge or legal advisor of the division of workers' compensation retiring pursuant to the provisions of sections 287.812 to 287.855 or payable to a beneficiary as provided in sections 287.812 to 287.850;

(4) "Board", the board of trustees of the Missouri state employees' retirement system;

(5) ["Chief legal counsel", any person appointed or employed under section 287.615 to serve in the capacity of legal counsel to the division;

(6)] "Division", the division of workers' compensation of the state of Missouri;

[(7)] (6) "Legal advisor", any person appointed or employed pursuant to section 287.600, 287.615, or 287.616 to serve in the capacity as a legal advisor or an associate administrative law judge and any person appointed pursuant to section 286.010 or pursuant to section 295.030, and any attorney or legal counsel appointed or employed pursuant to section 286.070;

[(8)] (7) "Salary", the total annual compensation paid for personal services as an administrative law judge or legal advisor, or both, of the division of workers'

compensation by the state or any of its political subdivisions.

287.835. [1. No benefits provided pursuant to sections 287.812 to 287.855 shall be paid to any person who has been removed from office by impeachment or for misconduct, nor to any person who has been disbarred from the practice of law, nor to the beneficiary of any such persons.

2.] The board of trustees of the Missouri state employees' retirement system shall cease paying benefits to any beneficiary of an administrative law judge or legal advisor who is charged with the intentional killing of the administrative law judge or legal advisor without legal excuse or justification. A beneficiary who is convicted of such charges shall no longer be entitled to receive benefits. If the beneficiary is not convicted of such charge, the board shall resume payment of benefits and shall pay the beneficiary any benefits that were suspended pending resolution of such charge.

347.143. 1. A limited liability company may be dissolved involuntarily by a decree of the circuit court for the county in which the registered office of the limited liability company is situated in an action filed by the attorney general when it is established that the limited liability company:

(1) Has procured its articles of organization through fraud;

(2) Has exceeded or abused the authority conferred upon it by law;

(3) Has carried on, conducted, or transacted its business in a fraudulent or illegal manner; or

(4) By the abuse of its powers contrary to the public policy of the state, has become liable to be dissolved.

2. On application by or for a member, the circuit court for the county in which the registered office of the limited liability company is located may decree dissolution of a limited liability company **[whenever]** if the court determines:

(1) It is not reasonably practicable to carry on the business in conformity with the operating agreement;

(2) Dissolution is reasonably necessary for the protection of the rights or interests of the complaining members;

(3) The business of the limited liability company has been abandoned;

(4) The management of the limited liability company is deadlocked or subject to internal dissension;

(5) The business operations of the limited liability company are substantially impaired; or

(6) Those in control of the limited liability company have been found guilty of, or have knowingly countenanced, persistent and pervasive fraud, mismanagement, or abuse of authority.

435.300. As used in sections 435.300 to 435.312, the following terms mean:

(1) "Alternative dispute resolution communication", a statement, whether communicated orally, in writing, or by nonverbal conduct, that is either:

(a) Related to the subject matter of the dispute and made during an alternative dispute resolution process; or

(b) Made as part of considering, conducting, participating in, initiating, continuing, or reconvening an alternative dispute resolution process.

The term "alternative dispute resolution communication" shall not include the notifications or reports made under

subsection 8 of section 435.306 or a written agreement as described under section 435.312;

(2) "Alternative dispute resolution process", mediation, arbitration, or early neutral evaluation used in conjunction with a pending civil action, and any other alternative to trial that has been included in a local court rule applicable to a civil dispute;

(3) "Arbitration", a procedure in which a neutral or panel of neutrals hears and decides a dispute between two or more parties;

(4) "Conflict of interest", any direct or indirect financial or personal interest in the outcome of a dispute or any existing or prior financial, business, professional, familial, or social relationship with any participant in an alternative dispute resolution process that is likely to affect the impartiality of the neutral or that may reasonably create an appearance of partiality or bias;

(5) "Early neutral evaluation", a process in which a neutral provides parties to a dispute with a nonbinding assessment of their dispute;

(6) "In camera", a proceeding held in a judge's chambers or in a courtroom from which the public is excluded;

(7) "Mandated reporter", an individual who is required to report abuse or neglect under the provisions of section 192.2405, 192.2475, 198.070, 208.912, 210.115, 352.400, 630.162, or 630.165;

(8) "Mediation", a process in which a neutral facilitates communications among the parties and assists the parties in their efforts to reach a voluntary agreement regarding the dispute;

(9) "Mediator", a neutral who conducts mediation;

(10) "Neutral", an individual who, acting independently and not as a representative, agent, or

advocate of any of the parties, assists the parties in their efforts to reach a resolution of their dispute through an alternative dispute resolution process;

(11) "Participant", any person or entity, including any neutral or party, that participates in an alternative dispute resolution process;

(12) "Party", an individual or entity named as a party in a pending civil action, or in an agreement to use an alternative dispute resolution process as described under sections 435.309 and 435.312;

(13) "Proceeding", a judicial, administrative, arbitral, or other adjudicative process, including related prehearing and posthearing motions, conferences, hearings, and discovery;

(14) "Writing" or "written", a tangible or electronic record of a communication or representation, including handwriting, typewriting, printing, photostating, photography, audio or video recording, and electronic communication;

(15) "Written agreement", a writing that:

(a) Contains the essential terms of an agreement; and

(b) Is signed, executed, or adopted by the parties by any process described under subdivision (15) of this section, including electronic signatures as permitted by section 432.230, with the intent to sign and be bound by the writing and attached to or logically associated with the writing.

435.303. 1. A court may refer any individual civil case or category of civil cases to mediation or another nonbinding alternative dispute resolution process either by rule or court order.

2. In an action referred to an alternative dispute resolution process, discovery may proceed as in any other

action before, during, and after the alternative dispute resolution process is held. The court may stay discovery in whole or in part during the pendency of an alternative dispute resolution process in order to promote savings in time and expense without sacrificing the quality of justice.

3. A neutral who is appointed by the court or requested by the parties to serve in an alternative dispute resolution process under sections 435.300 to 435.312 shall avoid any conflict of interest. If the neutral believes that no disqualifying conflict exists, the neutral shall:

(1) Make a reasonable inquiry to determine whether there are any facts that would cause a reasonable person to believe that the neutral has an actual or potential conflict of interest before agreeing to serve in a matter;

(2) Disclose to the parties, as soon as practicable, facts and information relevant to any actual or potential conflicts of interest that are reasonably known to the neutral; and

(3) If, after accepting a designation by the parties or the court, the neutral learns of any previously undisclosed information that could reasonably suggest a conflict of interest, promptly disclose the information to the parties.

4. After the neutral's disclosure of a conflict, the alternative dispute resolution process may proceed if:

(1) All parties agree in writing to service by the neutral; or

(2) An organization independently administering the alternative dispute resolution process under rules of procedure that were adopted by a written agreement of the parties determines under such rules that the neutral may continue to serve.

5. Any party who believes a court-appointed neutral has a conflict of interest may request that the neutral recuse himself or herself if a conflict is disclosed or otherwise discovered. If the neutral declines, the party may timely file a motion with the court for disqualification of the neutral. Failure to file a motion waives that objection. On its own motion, the court may also review the choice of a neutral in any alternative dispute resolution process involving a party that is not represented by counsel and require a change of neutral if necessary to protect the rights of the unrepresented party.

435.306. 1. Alternative dispute resolution communications shall not be admissible as evidence in any proceeding or subject to discovery, except as otherwise provided under subsections 2, 3, and 7 of this section. Exceptions shall be narrowly construed and only the portion of the communication necessary for the application of the exception to the general rule of nonadmissibility shall be admitted.

2. Evidence or information that is otherwise admissible or subject to discovery, including information that would be available to the public under sections 610.010 to 610.035, shall not become inadmissible or protected from discovery solely by reason of its disclosure or use in an alternative dispute resolution process.

3. A court may determine to admit an alternative dispute resolution communication upon motion of a party, which motion shall not reveal the substance of the communication, and following a hearing only if the court finds that one or more of the exceptions under this subsection apply and the communication is otherwise relevant and admissible. The party seeking admission shall ensure that timely notice is given to the neutral and parties that

participated in the alternative dispute resolution process in which the alternative dispute resolution communication was made. The hearing shall be conducted in camera if requested by a party or if the court determines on its own motion that an in camera proceeding is necessary to ensure the confidentiality of the communications that are the subject to the hearing. The only exceptions to the general rule of nonadmissibility of alternative dispute resolution communications stated under subsection 1 of this section are as follows:

(1) The alternative dispute resolution communication was made in the presence of a mandated reporter and pertains to abuse or neglect that such mandated reporter is required by state law or regulation to report;

(2) The alternative dispute resolution communication is a substantial threat or statement of a plan to inflict bodily injury capable of causing death or substantial bodily harm that is reasonably certain to occur;

(3) The alternative dispute resolution communication is intentionally used to plan a crime, attempt to commit an offense, or to conceal an ongoing crime or ongoing criminal activity; or

(4) The alternative dispute resolution communication is necessary to establish or defend against a claim of professional misconduct or malpractice that is filed against or on behalf of a participant based on conduct occurring during the alternative dispute resolution process.

4. The admission of evidence in a proceeding under any of the exceptions stated under subsection 3 of this section shall not in itself render the evidence or any other alternative dispute resolution communication discoverable or admissible for any other purpose or proceeding.

5. Any participant in an alternative dispute resolution process has standing to intervene in any proceeding to object to the admissibility of an alternative dispute resolution communication made by that participant during or relating to that alternative dispute resolution process. A neutral who participated in an alternative dispute resolution process also has standing to intervene in any proceeding to object to the admissibility of an alternative dispute resolution communication made by the neutral or an agent or employee of a neutral or of an organization through which the neutral provided the alternative dispute resolution services for such process, but the neutral is under no requirement to do so.

6. Except as provided under subsection 7 of this section, no neutral, agent or employee of that neutral, or agent or employee of an organization through which the neutral provided alternative dispute resolution services shall be subpoenaed or otherwise compelled to disclose any alternative dispute resolution communication, including any alternative dispute resolution communication that would otherwise fall within the exceptions identified under subsection 3 of this section. No neutral who is a licensed attorney, or an agent or employee of such neutral or of an organization through which the neutral provided alternative dispute resolution services under sections 435.300 to 435.312, shall be required to disclose any alternative dispute resolution communication to which a reporting obligation might otherwise apply under the rules regulating the professional conduct of attorneys.

7. A neutral, an agent or employee of that neutral, or an agent or employee of an organization through which the neutral provided the alternative dispute resolution services may be subpoenaed in an action to enforce a written

agreement as described under subsection 2 of section 435.309, but only for the limited purpose of testifying that the written agreement was signed by the parties in the presence of the neutral.

8. The court may request that the neutral or the parties provide the court with progress reports on alternative dispute resolution processes related to pending civil actions; provided that, such reports shall be limited to a statement that the matter has been resolved in its entirety, partially resolved, or not resolved and whether future dates for an alternative dispute resolution process are scheduled. A neutral may also report to the court that a payment has not been received from one or more parties. A court shall not require the disclosure of alternative dispute resolution communication in any such report.

9. The court may order the party or parties seeking admission of an alternative dispute resolution communication to pay the costs and fees of the neutral or other person participating in an alternative dispute resolution process who intervenes to contest the disclosure and admission of alternative dispute resolution communication or who responds to a subpoena prohibited under subsection 6 of this section or a subpoena under subsection 7 of this section.

435.309. 1. Unless the parties have entered into a written agreement providing for entry into a binding alternative dispute resolution process, all alternative dispute resolution processes under sections 435.300 to 435.312 shall be nonbinding.

2. In order to be binding on the parties, a settlement agreement that is reached in an alternative dispute resolution process shall be in a written agreement.

3. Alternative dispute resolution processes included in consumer contracts for goods or services in compliance

with sections 435.350 to 435.470 shall be independently administered as set forth in the contract.

435.312. 1. Except as provided under subsection 6 of this section, sections 435.300 to 435.312 shall apply only when the court has referred an alternative dispute resolution process, either by rule or court order or when the parties enter into a written agreement to resolve their dispute through an alternative dispute resolution process expressly providing that sections 435.300 to 435.312 shall apply to such alternative dispute resolution process.

2. The parties to a dispute may enter into a written agreement to attempt to resolve their differences through an alternative dispute resolution process and may agree that sections 435.300 to 435.312 will apply to such alternative dispute resolution process prior to the filing of an action or after the entry of a judgment, as well as during the pendency of an action. If the matter resolves and the parties file a case to present the settlement for approval by the court, the case shall be exempted from any local rule that refers a class of cases to any alternative dispute resolution process.

3. Nothing in sections 435.300 to 435.312 shall preclude any court from referring any individual matter to a nonbinding alternative dispute resolution process so as to effectuate the timely, fair, and efficient administration of justice.

4. Nothing in sections 435.300 to 435.312 is intended to undermine the right of litigants to a jury trial in the event that a resolution satisfactory to the parties is not achieved through a nonbinding alternative dispute resolution process.

5. Nothing in sections 435.300 to 435.312 shall be deemed to require:

(1) Any party or party representative who appears at an alternative dispute resolution process in compliance with a court order to settle all or part of any claim; or

(2) Any party to attend a mediation with counsel if such party is self-represented.

6. If the court has not referred a case to an alternative dispute resolution process under section 435.303 or if the parties do not elect to use sections 435.300 to 435.312, the process shall be regarded as settlement negotiations and subject to the rules of confidentiality that generally apply to such negotiations. If the parties to the dispute have agreed in writing to submit their dispute to such alternative dispute resolution process but have not invoked the protections of sections 435.300 to 435.312, no person who serves as a neutral in such process, nor any agent or employee of that person or of an organization through which the neutral provided the alternative dispute resolution process, shall be subpoenaed or otherwise compelled to disclose any matter revealed in the process of setting up or conducting such alternative dispute resolution process. All settlement agreements shall be in writing as described under sections 435.300 to 435.312.

452.355. 1. Unless otherwise indicated, the court from time to time after considering all relevant factors including the financial resources of both parties, the merits of the case and the actions of the parties during the pendency of the action, may order a party to pay a reasonable amount for the cost to the other party of maintaining or defending any proceeding pursuant to sections 452.300 to 452.415 and for attorney's fees, including sums for legal services rendered and costs incurred prior to the commencement of the proceeding and after entry of a final judgment. The court may order that the amount be paid

directly to the attorney, who may enforce the order in the attorney's name.

2. In actions brought to enforce a temporary order or final judgment of the court in any proceeding under sections 452.300 to 452.415, excluding any proceeding described in subsection 3 of this section, the court shall order the party against whom enforcement is sought, if requested and for good cause shown, to pay the cost of the suit to the party seeking enforcement, including attorney's fees. The court may order that the amount be paid directly to the attorney, who may enforce the order in the attorney's name.

3. In any proceeding in which the failure to pay child support pursuant to a temporary order or final judgment is an issue, if the court finds that the obligor has failed, without good cause, to comply with such order or decree to pay the child support, the court shall order the obligor, if requested and for good cause shown, to pay a reasonable amount for the cost of the suit to the obligee, including reasonable sums for legal services. The court may order that the amount be paid directly to the attorney, who may enforce the order in his name.

[3.] 4. For purposes of this section, an "obligor" is a person owing a duty of support and an "obligee" is a person to whom a duty of support is owed.

[4.] 5. For purposes of this section, "good cause" includes, but shall not be limited to, any substantial reason why the obligor is unable to pay the child support as ordered. Good cause does not exist if the obligor purposely maintains his inability to pay.

453.700. Sections 453.700 to 453.740 shall be known and may be cited as the "Uniform Unregulated Child Custody Transfer Act".

453.702. As used in sections 453.700 to 453.740, the following terms mean:

(1) "Child", an unemancipated individual under eighteen years of age;

(2) "Child-placing agency", a person with authority under other law of this state to identify or place a child for adoption. The term "child-placing agency" does not include a parent of the child;

(3) "Custody", the exercise of physical care and supervision of a child;

(4) "Intercountry adoption", an adoption or placement for adoption of a child who resides in a foreign country at the time of adoption or placement. The term "intercountry adoption" includes an adoption finalized in the child's country of residence or in a state;

(5) "Parent", an individual recognized as a parent under other law of this state;

(6) "Person", an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity;

(7) "Record", information:

(a) Inscribed on a tangible medium; or

(b) Stored in an electronic or other medium and retrievable in perceivable form;

(8) "State", a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any other territory or possession subject to the jurisdiction of the United States. The term "state" includes a federally recognized Indian tribe.

453.704. Sections 453.700 to 453.740 do not apply to custody of an Indian child, as defined in Section 4(4) of the Indian Child Welfare Act of 1978, 25 U.S.C. Section

1903(4), as amended, to the extent custody is governed by the Indian Child Welfare Act of 1978, 25 U.S.C. Sections 1901 through 1963, as amended.

453.706. As used in sections 453.706 to 453.716, the following terms mean:

(1) "Guardian", a person recognized as a guardian under other law of this state;

(2) "Intermediary", a person that assists or facilitates a transfer of custody of a child, whether or not for compensation.

453.708. Sections 453.706 to 453.716 do not apply to a transfer of custody of a child by a parent or guardian of the child to:

(1) A parent of the child;

(2) A stepparent of the child;

(3) An adult who is related to the child by blood, marriage, or adoption;

(4) An adult who, at the time of the transfer, had a close relationship with the child or the parent or guardian of the child for a substantial period, and whom the parent or guardian reasonably believes, at the time of the transfer, to be a fit custodian of the child;

(5) An Indian custodian, as defined in Section 4(6) of the Indian Child Welfare Act of 1978, 25 U.S.C. Section 1903(6), as amended, of the child; or

(6) A member of the child's customary family unit recognized by the child's indigenous group under other law of this state.

453.710. 1. Except as provided in subsection 2 of this section, a parent or guardian of a child or an individual with whom a child has been placed for adoption shall not transfer custody of the child to another person

with the intent, at the time of the transfer, to abandon the rights and responsibilities concerning the child.

2. A parent or guardian of a child or an individual with whom a child has been placed for adoption may transfer custody of the child to another person with the intent, at the time of the transfer, to abandon the rights and responsibilities concerning the child only through:

(1) Adoption or guardianship;

(2) Judicial award of custody;

(3) Placement by or through a child-placing agency;

(4) Other judicial or tribal action; or

(5) Safe place for newborns act of 2002 under section 210.950.

3. A person shall not receive custody of a child, or act as an intermediary in a transfer of custody of a child, if the person knows or reasonably should know the transfer violates subsection 1 of this section. This prohibition does not apply if the person, as soon as practicable after the transfer, notifies the children's division of the transfer or takes appropriate action to establish custody under subsection 2 of this section.

4. Violation of this section is a class B misdemeanor.

5. Violation of subsection 1 of this section is not established solely because a parent or guardian that transfers custody of a child does not regain custody.

453.712. 1. If the children's division has a reasonable basis to believe that a person has transferred or will transfer custody of a child in violation of subsection 1 of section 453.710, the children's division may conduct a home visit as provided by other law of this state and take appropriate action to protect the welfare of the child.

2. If the children's division conducts a home visit for a child adopted or placed through an intercountry adoption, the children's divisions shall:

(1) Prepare a report on the welfare and plan for permanent placement of the child; and

(2) Provide a copy to the United States Department of State.

3. Sections 453.700 to 453.740 do not prevent the children's division from taking appropriate action under other law of this state.

453.714. 1. A person shall not solicit or advertise to:

(1) Identify a person to which to make a transfer of custody in violation of subsection 1 of section 453.710;

(2) Identify a child for a transfer of custody in violation of subsection 3 of section 453.710; or

(3) Act as an intermediary in a transfer of custody in violation of subsection 3 of section 453.710.

2. Violation of this section is a class B misdemeanor.

453.716. A law enforcement agency may investigate a possible violation of sections 453.706 to 453.716 and take legal action as provided by law of this state.

453.718. As used in sections 453.718 to 453.732, the term "prospective adoptive parent" means an individual who has been approved or permitted under other law of this state to adopt a child.

453.720. Sections 453.718 to 453.732 apply to placement for adoption of a child who:

(1) Has been or is in foster or institutional care;

(2) Previously has been adopted in a state;

(3) Has been or is being adopted under the law of a foreign country;

(4) Has come or is coming to a state from a foreign country to be adopted; or

(5) Is not a citizen of the United States.

453.722. Within a reasonable time before a child-placing agency places a child for adoption with a prospective adoptive parent, the agency shall provide or cause to be provided to the prospective adoptive parent general adoption information. The information shall address:

(1) Possible physical, mental, emotional, and behavioral issues concerning:

(a) Identity, loss, and trauma that a child might experience before, during, or after adoption; and

(b) A child leaving familiar ties and surroundings;

(2) The effect that access to resources, including health insurance, may have on the ability of an adoptive parent to meet the needs of a child;

(3) Causes of disruption of an adoptive placement or dissolution of an adoption and resources available to help avoid disruption or dissolution; and

(4) Prohibitions under sections 453.710 and 453.714.

453.724. 1. Except as prohibited by other law of this state, within a reasonable time before a child-placing agency places a child for adoption with a prospective adoptive parent, the agency shall provide or cause to be provided to the prospective adoptive parent information specific to the child that is known to or reasonably obtainable by the agency and material to the prospective adoptive parent's informed decision to adopt the child. The information shall include:

(1) The child's family, cultural, racial, religious, ethnic, linguistic, and educational background;

(2) The child's physical, mental, emotional, and behavioral health;

(3) Circumstances that might adversely affect the child's physical, mental, emotional, or behavioral health;

(4) The child's medical history, including immunizations;

(5) The medical history of the child's genetic parents and siblings;

(6) The history of an adoptive or out-of-home placement of the child and the reason the adoption or placement ended;

(7) The child's United States immigration status;

(8) Medical, therapeutic, and educational resources, including language-acquisition training, available to the adoptive parent and child after placement for adoption or adoption to assist in responding effectively to physical, mental, emotional, or behavioral health issues; and

(9) Available records relevant to the information in subdivisions (1) through (8) of this subsection.

2. If, before an adoption is finalized, additional information under subsection 1 of this section that is material to a prospective adoptive parent's informed decision to adopt the child becomes known to or reasonably obtainable by the child-placing agency, the agency shall provide the information to the prospective adoptive parent.

3. If, after an adoption is finalized, additional information under subsection 1 of this section becomes known to the child-placing agency, the agency shall make a reasonable effort to provide the information to the adoptive parent.

453.726. 1. A child-placing agency placing a child for adoption shall provide or cause to be provided to the prospective adoptive parent guidance and instruction specific to the child to help prepare the parent to respond

effectively to needs of the child that are known to or reasonably ascertainable by the agency.

2. The guidance and instruction under subsection 1 of this section shall address, if applicable:

(1) The potential effect on the child of:

(a) A previous adoption or out-of-home placement;

(b) Multiple previous adoptions or out-of-home placements;

(c) Trauma, insecure attachment, fetal alcohol exposure, or malnutrition;

(d) Neglect, abuse, drug exposure, or similar adversity;

(e) Separation from a sibling or significant caregiver; and

(f) A difference in ethnicity, race, or cultural identity between the child and the prospective adoptive parent or other child of the parent;

(2) Information available from the federal government on the process for the child to acquire United States citizenship; and

(3) Any other matter the child-placing agency considers material to the adoption.

3. The guidance and instruction under subsection 1 of this section shall be provided:

(1) For adoption of a child residing in the United States, a reasonable time before the adoption is finalized; or

(2) For an intercountry adoption, in accordance with federal law.

453.728. On request of a child who was placed for adoption or the child's adoptive parent, the child-placing agency placing the child or the children's division shall

provide information about how to obtain financial assistance or support services:

(1) To assist the child or parent to respond effectively to adjustment, behavioral health, and other challenges; and

(2) To help preserve the placement or adoption.

453.730. 1. A law enforcement agency may investigate an allegation that a child-placing agency has failed to comply with sections 453.718 to 453.732 and commence an action for injunctive or other relief or initiate an administrative proceeding against the child-placing agency to enforce sections 453.718 to 453.732.

2. The children's division may initiate a proceeding to determine whether a child-placing agency has failed to comply with sections 453.718 to 453.732. If the children's divisions finds that the child-placing agency has failed to comply, the children's division may suspend or revoke the agency's license or take other action permitted by law of this state.

453.732. The children's division may adopt rules under chapter 536 to implement sections 453.722, 453.724, and 453.728. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2024, shall be invalid and void.

453.734. In applying and construing this uniform act, a court shall consider the promotion of uniformity of the law among jurisdictions that enact it.

453.736. Sections 453.700 to 453.740 modify, limit, or supersede the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., as amended, but do not modify, limit, or supersede 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in 15 U.S.C. Section 7003(b).

453.738. 1. Sections 453.706 to 453.716 apply to:

(1) A transfer of custody on or after August 28, 2024;
and

(2) Soliciting or advertising on or after August 28, 2024.

2. Sections 453.718 to 453.732 apply to placement of a child for adoption more than sixty days after August 28, 2024.

453.740. If a provision of sections 453.700 to 453.740 or its application to a person or circumstance is held invalid, the invalidity does not affect another provision or application that can be given effect without the invalid provision.

453.742. Sections 453.700 to 453.740 supplement the provisions under this chapter and chapter 210 for the transfer of custody of a child. To the extent the provisions under this chapter or chapter 210 are inconsistent with sections 453.700 to 453.740, the provisions of sections 453.700 to 453.740 control regarding the transfer of custody of a child.

454.1050. 1. This section shall be known and may be cited as "Bentley and Mason's Law".

2. The court shall order a defendant convicted of the offense of driving while intoxicated to pay restitution for

a child whose parent or guardian died as a result of such offense.

3. Notwithstanding any provision of law under chapter 559 relating to restitution, and subject to subsection 4 of this section, the court shall determine a monthly amount to be paid for the support of the child until the child reaches eighteen years of age or has graduated from high school, whichever is later.

4. The defendant shall not be required to pay restitution under this section to an individual who is nineteen years of age or older.

5. The court shall order the defendant to pay restitution in an amount that is reasonable and necessary to support the child, considering all relevant factors, including:

(1) The financial needs and resources of the child;

(2) The financial needs and resources of the surviving parent or guardian or other current guardian of the child, including the state if the state is the guardian;

(3) The standard of living to which the child is accustomed;

(4) The physical and emotional condition of the child and the child's educational needs;

(5) The child's physical and legal custody arrangements;

(6) The reasonable work-related child care expenses of the surviving parent or guardian or other current guardian, if applicable; and

(7) The financial resources of the defendant.

6. The order of restitution under this section shall require restitution payments to be:

(1) Delivered in the manner described under subsection 7 of this section, as appropriate; and

(2) Directed to the parent or guardian of the child or the state, as applicable.

7. The order of restitution under this section shall require the defendant to:

(1) Make restitution directly to the person or agency that will accept and forward restitution payments to the victim or other person eligible for restitution under this section; or

(2) Deliver the amount due as restitution to the division of probation or parole or to the department of corrections for transfer to the victim or person or state, as appropriate.

8. If a defendant ordered to pay restitution under this section is unable to make the required restitution payments because the defendant is confined or imprisoned in a correctional facility, the defendant shall begin payments no later than the first anniversary of the date of the defendant's release from the facility. The defendant may enter into a payment plan to address any arrearage that exists on the date of the defendant's release. The defendant shall pay all arrearages regardless of whether the restitution payments were scheduled to terminate while the defendant was confined or imprisoned in the correctional facility.

9. The amount of restitution paid under this section shall be deducted from any civil judgment against the defendant.

10. A restitution order issued under this section may be enforced by the office of the attorney general, or by a person or a parent or guardian of the person named in the order to receive the restitution, in the same manner as a judgment in a civil action.

455.010. As used in this chapter, unless the context clearly indicates otherwise, the following terms shall mean:

(1) "Abuse", includes but is not limited to the occurrence of any of the following acts, attempts or threats against a person who may be protected pursuant to this chapter, except abuse shall not include abuse inflicted on a child by accidental means by an adult household member or discipline of a child, including spanking, in a reasonable manner:

(a) "Abusing a pet", purposely or knowingly causing, attempting to cause, or threatening to cause physical injury to a pet with the intent to control, punish, intimidate, or distress the petitioner;

(b) "Assault", purposely or knowingly placing or attempting to place another in fear of physical harm;

(c) "Battery", purposely or knowingly causing physical harm to another with or without a deadly weapon;

(d) "Coercion", compelling another by force or threat of force to engage in conduct from which the latter has a right to abstain or to abstain from conduct in which the person has a right to engage;

(e) "Harassment", engaging in a purposeful or knowing course of conduct involving more than one incident that alarms or causes distress to an adult or child and serves no legitimate purpose. The course of conduct must be such as would cause a reasonable adult or child to suffer substantial emotional distress and must actually cause substantial emotional distress to the petitioner or child. Such conduct might include, but is not limited to:

a. Following another about in a public place or places;

b. Peering in the window or lingering outside the residence of another; but does not include constitutionally protected activity;

(f) "Sexual assault", causing or attempting to cause another to engage involuntarily in any sexual act by force, threat of force, duress, or without that person's consent;

(g) "Unlawful imprisonment", holding, confining, detaining or abducting another person against that person's will;

(2) "Adult", any person [seventeen] eighteen years of age or older or otherwise emancipated;

(3) "Child", any person under [seventeen] eighteen years of age unless otherwise emancipated;

(4) "Court", the circuit or associate circuit judge or a family court commissioner;

(5) "Domestic violence", abuse or stalking committed by a family or household member, as such terms are defined in this section;

(6) "Ex parte order of protection", an order of protection issued by the court before the respondent has received notice of the petition or an opportunity to be heard on it;

(7) "Family" or "household member", spouses, former spouses, any person related by blood or marriage, persons who are presently residing together or have resided together in the past, any person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, and anyone who has a child in common regardless of whether they have been married or have resided together at any time;

(8) "Full order of protection", an order of protection issued after a hearing on the record where the respondent has received notice of the proceedings and has had an opportunity to be heard;

(9) "Order of protection", either an ex parte order of protection or a full order of protection;

(10) "Pending", exists or for which a hearing date has been set;

(11) "Pet", a living creature maintained by a household member for companionship and not for commercial purposes;

(12) "Petitioner", a family or household member who has been a victim of domestic violence, or any person who has been the victim of stalking or sexual assault, or a person filing on behalf of a child pursuant to section 455.503 who has filed a verified petition pursuant to the provisions of section 455.020 or section 455.505;

(13) "Respondent", the family or household member alleged to have committed an act of domestic violence, or person alleged to have committed an act of stalking or sexual assault, against whom a verified petition has been filed or a person served on behalf of a child pursuant to section 455.503;

(14) "Sexual assault", as defined under subdivision (1) of this section;

(15) "Stalking", is when any person purposely engages in an unwanted course of conduct that causes alarm to another person, or a person who resides together in the same household with the person seeking the order of protection when it is reasonable in that person's situation to have been alarmed by the conduct. As used in this subdivision:

(a) "Alarm", to cause fear of danger of physical harm; and

(b) "Course of conduct", two or more acts that serve no legitimate purpose including, but not limited to, acts in which the stalker directly, indirectly, or through a third party follows, monitors, observes, surveils, threatens, or communicates to a person by any action, method, or device.

455.035. 1. Upon the filing of a verified petition pursuant to sections 455.010 to 455.085 and for good cause shown in the petition, the court may immediately issue an ex parte order of protection. An immediate and present danger of domestic violence to the petitioner or the child on whose behalf the petition is filed shall constitute good cause for purposes of this section. An ex parte order of protection entered by the court shall take effect when entered and shall remain in effect until there is valid service of process and a hearing is held on the motion. The court shall deny the ex parte order and dismiss the petition if the petitioner is not authorized to seek relief pursuant to section 455.020.

2. Failure to serve an ex parte order of protection on the respondent shall not affect the validity or enforceability of such order. If the respondent is less than ~~seventeen~~ eighteen years of age, unless otherwise emancipated, service of process shall be made upon a custodial parent or guardian of the respondent, or upon a guardian ad litem appointed by the court, requiring that the person appear and bring the respondent before the court at the time and place stated.

3. If an ex parte order is entered and the respondent is less than ~~seventeen~~ eighteen years of age, the court shall transfer the case to juvenile court for a hearing on a full order of protection. The court shall appoint a guardian ad litem for any such respondent not represented by a parent or guardian.

455.513. 1. The court may immediately issue an ex parte order of protection upon the filing of a verified petition under sections 455.500 to 455.538, for good cause shown in the petition, and upon finding that:

(1) No prior order regarding custody involving the respondent and the child is pending or has been made; or

(2) The respondent is less than ~~seventeen~~ eighteen years of age.

An immediate and present danger of domestic violence, including danger to the child's pet, stalking, or sexual assault to a child shall constitute good cause for purposes of this section. An ex parte order of protection entered by the court shall be in effect until the time of the hearing. The court shall deny the ex parte order and dismiss the petition if the petitioner is not authorized to seek relief pursuant to section 455.505.

2. Upon the entry of the ex parte order of protection, the court shall enter its order appointing a guardian ad litem or court-appointed special advocate to represent the child victim.

3. If the allegations in the petition would give rise to jurisdiction under section 211.031, the court may direct the children's division to conduct an investigation and to provide appropriate services. The division shall submit a written investigative report to the court and to the juvenile officer within thirty days of being ordered to do so. The report shall be made available to the parties and the guardian ad litem or court-appointed special advocate.

4. If the allegations in the petition would give rise to jurisdiction under section 211.031 because the respondent is less than ~~seventeen~~ eighteen years of age, the court may issue an ex parte order and shall transfer the case to juvenile court for a hearing on a full order of protection. Service of process shall be made pursuant to section 455.035.

456.950. 1. As used in this section, "qualified spousal trust" means a trust:

(1) The settlors of which are married to each other at the time of the creation of the trust; and

(2) The terms of which provide that during the joint lives of the settlors or the life of the sole surviving settlor all property transferred to, or held by, the trustee are:

(a) Held and administered in one trust for the benefit of both settlors, which may be revocable by either settlor or both settlors while either or both are alive, and by one settlor after the death or incapacity of the other, and each settlor having the right to receive distributions of income or principal, whether mandatory or within the discretion of the trustee, from the entire trust for the joint lives of the settlors and for the survivor's life; or

(b) Held and administered in two or more separate shares of one trust for the benefit of each or both of the settlors, with the trust revocable by each settlor with respect to that settlor's separate share of that trust without the participation or consent of the other settlor, and each settlor having the right to receive distributions of income or principal, whether mandatory or within the discretion of the trustee, from that settlor's separate share for that settlor's life; or

(c) Held and administered under the terms and conditions contained in paragraphs (a) and (b) of this subdivision.

2. A qualified spousal trust may contain any other trust terms that are not inconsistent with the provisions of this section, including, without limitation, a discretionary power to distribute trust property to a person in addition to a settlor.

3. All property at any time held in a qualified spousal trust, without regard to how such property was titled prior to it being so held[,]:

(1) Shall have the same immunity from the claims of a separate creditor of either settlor as if such property were held outside the trust by the settlors as tenants by the entirety, unless otherwise provided in writing by the settlor or settlors who transferred such property to the trust, and such property shall be treated for that purpose, including without limitation, federal and state bankruptcy laws, as tenants by entirety property[. Property held in a qualified spousal trust];

(2) With the exception of any written financial obligations, written guarantees, or secured or unsecured transactions executed by the settlors and held in a qualified spousal trust, shall continue to be immune and exempt from attachment during the life of the surviving settlor to the extent the property was held in a qualified spousal trust prior to the death of the first settlor and remains in a qualified spousal trust. This includes any property appreciation; and

(3) Shall cease to receive immunity from the claims of creditors upon the dissolution of marriage of the settlors by a court.

4. As used in this section, "property" means any interest in any type of property held in a qualified spousal trust, the income thereon, and any property into which such interest, proceeds, or income may be converted.

5. Upon the death of each settlor, all property held by the trustee of the qualified spousal trust shall be distributed as directed by the then current terms of the governing instrument of such trust. Upon the death of the first settlor to die, if immediately prior to death the

predeceased settlor's interest in the qualified spousal trust was then held or deemed to be held in such settlor's separate share, the property held in such settlor's separate share may pass into an irrevocable trust for the benefit of the surviving settlor or other beneficiary upon such terms as the governing instrument shall direct, including without limitation a spendthrift provision as provided in section 456.5-502. Property may be held in or transferred to a settlor's joint or separate share of a trust:

(1) By designation under the current terms of the governing instrument of such trust;

(2) According to the specific titling of property or other designation that refers to such joint or separate share of such trust; or

(3) By designation to the trustee as the owner as provided in section 456.1-113.

6. The respective rights of settlors who are married to each other in any property for purposes of a dissolution of the settlors' marriage shall not be affected or changed by reason of the transfer of that property to, or its subsequent administration as an asset of, a qualified spousal trust during the marriage of the settlors, unless both settlors expressly agree otherwise in writing.

7. No transfer to a qualified spousal trust shall avoid or defeat the Missouri uniform fraudulent transfer act in chapter 428.

8. This section shall apply to all trusts which fulfill the criteria set forth in this section for a qualified spousal trust regardless of whether such trust was created before, on, or after August 28, 2011.

469.399. Sections 469.399 to 469.487 shall be known and may be cited as the "Missouri Uniform Fiduciary Income and Principal Act".

469.401. As used in sections [469.401] 469.399 to [469.467] 469.487, the following terms mean:

(1) "Accounting period", a calendar year unless [another twelve-month period is selected by] a fiduciary selects another period of twelve calendar months or approximately twelve calendar months. The term "accounting period" includes a [portion] part of a calendar year or [other twelve-month] another period [that] of twelve calendar months or approximately twelve calendar months that begins when an income interest begins or ends when an income interest ends;

(2) "Asset-backed security", a security that is serviced primarily by the cash flows of a discrete pool of fixed or revolving receivables or other financial assets that by their terms convert into cash within a finite time. The term "asset-backed security" includes rights or other assets that ensure the servicing or timely distribution of proceeds to the holder of the asset-backed security. The term "asset-backed security" does not include an asset to which section 469.423, 469.437, or 469.447 applies;

(3) "Beneficiary", includes:

(a) For a trust:

a. A current beneficiary, including a current income beneficiary and a beneficiary that may receive only principal;

b. A remainder beneficiary; and

c. Any other successor beneficiary;

(b) For an estate, an heir, legatee, and devisee [of a decedent's estate, and an income beneficiary and a remainder beneficiary of a trust, including any type of entity that has a beneficial interest in either an estate or a trust];

and

(c) For a life estate or term interest, a person that holds a life estate, term interest, or remainder or other interest following a life estate or term interest;

(4) "Court", any court in this state having jurisdiction relating to a trust, estate, life estate, or other term interest described in subdivision (2) of subsection 1 of section 469.402;

(5) "Current income beneficiary", a beneficiary to which a fiduciary may distribute net income, whether or not the fiduciary also may distribute principal to the beneficiary;

(6) "Distribution", a payment or transfer by a fiduciary to a beneficiary in the beneficiary's capacity as a beneficiary, made under the terms of the trust, without consideration other than the beneficiary's right to receive the payment or transfer under the terms of the trust. The terms "distribute", "distributed", and "distributee" have corresponding meanings;

(7) "Estate", a decedent's estate. The term "estate" includes the property of the decedent as the estate is originally constituted and the property of the estate as it exists at any time during administration;

[(3)] (8) "Fiduciary", includes a trustee, trust protector determined in section 456.8-808, personal representative, [trustee, executor, administrator, successor personal representative, special administrator and any other person performing substantially the same function] life tenant, holder of a term "fiduciary" interest, and person acting under a delegation from a fiduciary. The term "fiduciary" includes a person that holds property for a successor beneficiary whose interest may be affected by an allocation of receipts and expenditures between income and principal. If there are two or more cofiduciaries, the term

"fiduciary" includes all cofiduciaries acting under the terms of the trust and applicable law;

[(4)] (9) "Income", money or other property [that] a fiduciary receives as current return from [a] principal [asset, including a portion]. The term "income" includes a part of receipts from a sale, exchange, or liquidation of a principal asset, [as] to the extent provided in sections 469.423 to 469.449;

[(5) "Income beneficiary", a person to whom net income of a trust is or may be payable;

(6)] (10) "Income interest", the right of [an] a current income beneficiary to receive all or part of net income, whether the terms of the trust require [it] the net income to be distributed or authorize [it] the net income to be distributed in the [trustee's] fiduciary's discretion. The term "income interest" includes the right of a current beneficiary to use property held by a fiduciary;

(11) "Independent person", a person that is not:

(a) For a trust:

a. A qualified beneficiary as defined in section 456.1-103;

b. A settlor of the trust; or

c. An individual whose legal obligation to support a beneficiary may be satisfied by a distribution from the trust;

(b) For an estate, a beneficiary;

(c) A spouse, parent, brother, sister, or issue of an individual described in paragraph (a) or (b) of this subdivision;

(d) A corporation, partnership, limited liability company, or other entity in which persons described in paragraphs (a) to (c) of this subdivision, in the aggregate, have voting control; or

(e) An employee of a person described in paragraph (a), (b), (c), or (d) of this subdivision;

[(7)] (12) "Mandatory income interest", the right of [an] a current income beneficiary to receive net income that the terms of the trust require the fiduciary to distribute;

[(8)] (13) "Net income", [if section 469.411 applies to the trust, the unitrust amount, or if section 469.411 does not apply to the trust,] the total [receipts allocated to income] allocations during an accounting period to income under the terms of a trust and sections 469.399 to 469.487 minus the disbursements [made from income during the same period, plus or minus transfers pursuant to sections 469.401 to 469.467 to or from income during the same period] during the period, other than distributions, allocated to income under the terms of the trust and sections 469.399 to 469.487. To the extent the trust is a unitrust under sections 469.471 to 469.487, the term "net income" means the unitrust amount determined thereunder. The term "net income" includes an adjustment from principal to income under section 469.405. The term "net income" does not include an adjustment from income to principal under section 469.405;

[(9)] (14) "Person", an individual, [corporation, business trust,] estate, trust, [partnership, limited liability company, association, joint venture] business or nonprofit entity, public corporation, government[,] or governmental subdivision, agency, or instrumentality, [public corporation] or [any] other legal [or commercial] entity;

(15) "Personal representative", an executor, administrator, successor personal representative, special administrator, or person that performs substantially the

same function with respect to an estate under the law governing the person's status;

[(10)] (16) "Principal", property held in trust for distribution to [a remainder], production of income for, or use by a current or successor beneficiary [when the trust terminates];

[(11) "Qualified beneficiary", a beneficiary defined in section 456.1-103;

(12) "Remainder beneficiary", a person entitled to receive principal when an income interest ends;

[(13)] (17) "Record", information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(18) "Settlor", a person, including a testator, that creates or contributes property to a trust. If more than one person creates or contributes property to a trust, the term "settlor" includes each person, to the extent of the trust property attributable to that person's contribution, except to the extent another person has the power to revoke or withdraw that portion;

(19) "Special tax benefit":

(a) Exclusion of a transfer to a trust from gifts described in 26 U.S.C. Section 2503(b), as amended, because of the qualification of an income interest in the trust as a present interest in property;

(b) Status as a qualified subchapter S trust described in 26 U.S.C. Section 1361(d)(3), as amended, at a time the trust holds stock of an S corporation described in 26 U.S.C. Section 1361(a)(1), as amended;

(c) An estate or gift tax marital deduction for a transfer to a trust under 26 U.S.C. Section 2056 or 2523, as amended, which depends or depended in whole or in part on

the right of the settlor's spouse to receive the net income of the trust;

(d) Exemption in whole or in part of a trust from the federal generation-skipping transfer tax imposed by 26 U.S.C. Section 2601, as amended, because the trust was irrevocable on September 25, 1985, if there is any possibility that:

a. A taxable distribution, as defined in 26 U.S.C. Section 2612(b), as amended, could be made from the trust; or

b. A taxable termination, as defined in 26 U.S.C. Section 2612(a), as amended, could occur with respect to the trust; or

(e) An inclusion ratio, as defined in 26 U.S.C. Section 2642(a), as amended, of the trust which is less than one, if there is any possibility that:

a. A taxable distribution, as defined in 26 U.S.C. Section 2612(b), as amended, could be made from the trust; or

b. A taxable termination, as defined in 26 U.S.C. Section 2612(a), as amended, could occur with respect to the trust;

(20) "Successive interest", the interest of a successor beneficiary;

(21) "Successor beneficiary", a person entitled to receive income or principal or to use property when an income interest or other current interest ends;

(22) "Terms of a trust":

(a) Except as otherwise provided in paragraph (b) of this subdivision, the manifestation of the settlor's [or decedent's] intent regarding a trust's provisions as:

a. Expressed in [a manner which is] the trust instrument; or

b. Established by other evidence that would be admissible [as proof] in a judicial proceeding[, whether by written or spoken words or by conduct];

(b) The trust's provisions as established, determined, or amended by:

a. A trustee or trust director in accordance with applicable law;

b. Court order; or

c. A nonjudicial settlement agreement under section 456.1-111;

(c) For an estate, a will; or

(d) For a life estate or term interest, the corresponding manifestation of the rights of the beneficiaries;

(23) "Trust":

(a) Includes:

a. An express trust, private or charitable, with additions to the trust, wherever and however created; and

b. A trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust; and

(b) Does not include:

a. A constructive trust;

b. A resulting trust, conservatorship, guardianship, multi-party account, custodial arrangement for a minor, business trust, voting trust, security arrangement, liquidation trust, or trust for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, retirement benefits, or employee benefits of any kind; or

c. An arrangement under which a person is a nominee, escrowee, or agent for another;

[(14)] (24) "Trustee", a person, other than a personal representative, that owns or holds property for the benefit of a beneficiary. The term "trustee" includes an original, additional, or successor trustee, whether or not appointed or confirmed by a court;

[(15) "Unitrust amount", net income as defined by section 469.411]

(25) "Will", any testamentary instrument recognized by applicable law that makes a legally effective disposition of an individual's property, effective at the individual's death. The term "will" includes a codicil or other amendment to a testamentary instrument.

469.402. [(The provisions of sections 456.3-301 to 456.3-305 shall apply to sections 469.401 to 469.467 for all purposes.)] 1. Except as otherwise provided in the terms of a trust or sections 469.399 to 469.487, sections 469.399 to 469.487 apply to:

(1) A trust or estate; and

(2) A life estate or other term interest in which the interest of one or more persons will be succeeded by the interest of one or more other persons.

2. Except as otherwise provided in the terms of a trust or sections 469.399 to 469.487, sections 469.399 to 469.487 apply when this state is the principal place of administration of a trust or estate or the situs of property that is not held in a trust or estate and is subject to a life estate or other term interest described in subdivision (2) of subsection 1 of this section. By accepting the trusteeship of a trust having its principal place of administration in this state or by moving the principal place of administration of a trust to this state, the trustee submits to the application of sections 469.399 to

469.487 to any matter within the scope of sections 469.399 to 469.487 involving the trust.

469.403. 1. [In allocating receipts and disbursements to or between principal and income, and with respect to any matter within the scope of] In making an allocation or determination or exercising discretion pursuant to sections 469.413 to 469.421, a fiduciary shall:

(1) [Shall] Act in good faith, based on what is fair and reasonable to all beneficiaries;

(2) Administer a trust or estate [under] impartially, except to the extent the terms of the trust manifest an intent that the fiduciary shall or [the will] may favor one or more beneficiaries;

(3) Administer the trust or estate in accordance with the terms of the trust, even if there is a different provision in sections [469.401] 469.399 to [469.467] 469.487; and

[(2) May] (4) Administer [a] the trust or estate [by exercising] in accordance with sections 469.399 to 469.487, except to the extent the terms of the trust provide otherwise or authorize the fiduciary to determine otherwise.

2. A fiduciary's allocation, determination, or exercise of discretion pursuant to sections 469.399 to 409.487 is presumed to be fair and reasonable to all beneficiaries. A fiduciary may exercise a discretionary power of administration given to the fiduciary by the terms of the trust [or the will, even if the], and an exercise of the power that produces a result different from a result required or permitted by sections [469.401] 469.399 to [469.467;] 469.487 does not create an inference that the fiduciary abused the fiduciary's discretion.

[(3) Shall administer a trust or estate pursuant]

3. A fiduciary shall:

(1) Add a receipt to [sections 469.401 to 469.467 if] principal, to the extent neither the terms of the trust [or the will do not contain a different provision or do not give] nor sections 469.399 to 469.487 allocate the [fiduciary a discretionary power of administration] receipt between income and principal; and

[(4) Shall add a receipt or] (2) Charge a disbursement to principal, to the extent [that the terms of the trust and sections 469.401 to 469.467 do not provide a rule for allocating the receipt or disbursement to or between principal and income.

2. In exercising the power to adjust pursuant to section 469.405 or a discretionary power of administration regarding a matter within the scope of sections 469.401 to 469.467, whether granted by the terms of a trust, a will, or sections 469.401 to 469.467, a fiduciary shall administer a trust or estate impartially, based on what is fair and reasonable to all of the beneficiaries, except to the extent that the terms of the trust or the will clearly manifest an intent that the fiduciary shall or may favor one or more of the beneficiaries. A determination in accordance with sections 469.401 to 469.467 is presumed to be fair and reasonable to all of the beneficiaries] neither the terms of the trust nor sections 469.399 to 469.487 allocate the disbursement between income and principal.

4. A fiduciary may exercise the power to adjust under section 469.405, convert an income trust to a unitrust under subdivision (1) of subsection 1 of section 469.475, change the percentage or method used to calculate a unitrust amount under subdivision (2) of subsection 1 of section 469.475, or convert a unitrust to an income trust under subdivision (3) of subsection 1 of section 469.475, if the fiduciary

determines the exercise of the power will assist the fiduciary to administer the trust or estate impartially.

5. Factors the fiduciary shall consider in making the determination under subsection 4 of this section include:

(1) The terms of the trust;

(2) The nature, distribution standards, and expected duration of the trust;

(3) The effect of the allocation rules, including specific adjustments between income and principal, under sections 407.413 to 407.461;

(4) The desirability of liquidity and regularity of income;

(5) The desirability of the preservation and appreciation of principal;

(6) The extent to which an asset is used or may be used by a beneficiary;

(7) The increase or decrease in the value of principal assets, reasonably determined by the fiduciary;

(8) Whether and to what extent the terms of the trust give the fiduciary power to accumulate income or invade principal or prohibit the fiduciary from accumulating income or invading principal;

(9) The extent to which the fiduciary has accumulated income or invaded principal in preceding accounting periods;

(10) The effect of current and reasonably expected economic conditions; and

(11) The reasonably expected tax consequences of the exercise of the power.

469.404. 1. As used in this section, the term "fiduciary decision" means:

(1) A fiduciary's allocation between income and principal or other determination regarding income and

principal required or authorized by the terms of the trust or sections 469.399 to 469.487;

(2) The fiduciary's exercise or nonexercise of a discretionary power regarding income and principal granted by the terms of the trust or sections 469.399 to 469.487, including the power to adjust under section 469.405, convert an income trust to a unitrust under subdivision (1) of subsection 1 of section 469.475, change the percentage or method used to calculate a unitrust amount under subdivision (2) of subsection 1 of section 469.475, or convert a unitrust to an income trust under subdivision (3) of subsection 1 of section 469.475; or

(3) The fiduciary's implementation of a decision described in subdivision (1) or (2) of this subsection.

2. The court shall not order a fiduciary to change a fiduciary decision unless the court determines that the fiduciary decision was an abuse of the fiduciary's discretion.

3. If the court determines that a fiduciary decision was an abuse of the fiduciary's discretion, the court may order a remedy authorized by law, including under section 456.10-1001. To place the beneficiaries in the positions the beneficiaries would have occupied if there had not been an abuse of the fiduciary's discretion, the court may order:

(1) The fiduciary to exercise or refrain from exercising the power to adjust under section 469.405;

(2) The fiduciary to exercise or refrain from exercising the power to convert an income trust to a unitrust under subdivision (1) of subsection 1 of section 469.475, change the percentage or method used to calculate a unitrust amount under subdivision (2) of subsection 1 of section 469.475, or convert a unitrust to an income trust under subdivision (3) of subsection 1 of section 469.475;

(3) The fiduciary to distribute an amount to a beneficiary;

(4) A beneficiary to return some or all of a distribution; or

(5) The fiduciary to withhold an amount from one or more future distributions to a beneficiary.

4. On petition by a fiduciary for instruction, the court may determine whether a proposed fiduciary decision will result in an abuse of the fiduciary's discretion. If the petition describes the proposed decision, contains sufficient information to inform the beneficiary of the reasons for making the proposed decision and the facts on which the fiduciary relies, and explains how the beneficiary will be affected by the proposed decision, a beneficiary that opposes the proposed decision has the burden to establish that it will result in an abuse of the fiduciary's discretion.

469.405. 1. [A trustee may adjust between principal and income to the extent the trustee considers necessary if the trustee invests and manages trust assets as a prudent investor, the terms of the trust describe the amount that may or shall be distributed to a beneficiary by referring to the trust's income, and the trustee determines, after applying subsection 1 of section 469.403, that the trustee is unable to comply with subsection 2 of section 469.403.] Except as otherwise provided in the terms of a trust or this section, a fiduciary, in a record, without court approval, may adjust between income and principal if the fiduciary determines the exercise of the power to adjust will assist the fiduciary to administer the trust or estate impartially.

2. This section does not create a duty to exercise or consider the power to adjust under subsection 1 of this

section or to inform a beneficiary about the applicability of this section.

3. A fiduciary that in good faith exercises or fails to exercise the power to adjust under subsection 1 of this section is not liable to a person affected by the exercise or failure to exercise.

[2.] 4. In deciding whether and to what extent to exercise the power [conferred by] to adjust under subsection 1 of this section, a [trustee] fiduciary shall consider all factors the fiduciary considers relevant [to the trust and its beneficiaries], including [the following] relevant factors [to the extent relevant:] in subsection 5 of section 469.403 and the application of sections 469.423, 469.435, and 469.445.

[(1) The nature, purpose and expected duration of the trust;

(2) The intent of the settlor;

(3) The identity and circumstances of the beneficiaries;

(4) The needs for liquidity, regularity of income, and preservation and appreciation of capital;

(5) The assets held in the trust, including the extent to which such assets consist of financial assets, interests in closely held enterprises, tangible and intangible personal property, or real property, and the extent to which such assets are used by a beneficiary, and whether such assets were purchased by the trustee or received from the settlor;

(6) The net amount allocated to income pursuant to sections 469.401 to 469.467, other than this section, and the increase or decrease in the value of the principal assets, which the trustee may estimate as to assets for which market values are not readily available;

(7) Whether and to what extent the terms of the trust give the trustee the power to invade principal or accumulate income, or prohibit the trustee from invading principal or accumulating income, and the extent to which the trustee has exercised a power from time to time to invade principal or accumulate income;

(8) The actual and anticipated effect of economic conditions on principal and income and effects of inflation and deflation; and

(9) The anticipated tax consequences of an adjustment.

3.] 5. A [trustee may] fiduciary shall not exercise the power under subsection 1 of this section to make an adjustment or under section 469.435 to make a determination that an allocation is insubstantial if:

(1) [That diminishes the income interest in a trust which requires all of the income to be paid at least annually to a spouse and for which an estate tax or gift tax marital deduction would be allowed, in whole or in part, if the trustee did not have the power to make the adjustment;

(2) That reduces the actuarial value of the income interest in a trust to which a person transfers property with the intent to qualify for a gift tax exclusion;

(3) That changes] The adjustment or determination would reduce the amount payable to a [beneficiary] current income beneficiary from a trust that qualifies for a special tax benefit, except to the extent the adjustment is made to provide for a reasonable apportionment of the total return of the trust between the current income beneficiary and successor beneficiaries;

(2) The adjustment or determination would change the amount payable to a beneficiary, as a fixed annuity or a fixed fraction of the value of the trust assets, under the terms of the trust;

[(4) From any] (3) The adjustment or determination would reduce an amount that is permanently set aside for a charitable [purposes] purpose under [a will or] the terms of [a] the trust [to the extent that the existence of the power to adjust would change the character of the amount], unless both income and principal are set aside for [federal income, gift or estate tax purposes] the charitable purpose;

[(5) If] (4) Possessing or exercising the power [to make an adjustment causes an individual] would cause a person to be treated as the owner of all or part of the trust for [income tax purposes, and the individual would not be treated as the owner if the trustee did not possess the power to make an adjustment] federal income tax purposes;

[(6) If] (5) Possessing or exercising the power [to make an adjustment causes] would cause all or part of the value of the trust assets to be included [for estate tax purposes] in the gross estate of an individual [who has] for federal estate tax purposes;

(6) Possessing or exercising the power [to remove or appoint a trustee, or both,] would cause an individual to be treated as making a gift for federal gift tax purposes;

(7) The fiduciary is not an independent person;

(8) The trust is irrevocable and [the assets would not be included in the estate of the individual if the trustee did not possess] provides for income to be paid to the settlor and possessing or exercising the power [to make an adjustment] would cause the adjusted principal or income to be considered an available resource or available income under a public-benefit program; or

[(7) If the trustee is a beneficiary of the trust; or

(8) If the trustee is not a beneficiary, but the adjustment would benefit the trustee directly or indirectly]

(9) The trust is a unitrust under sections 469.471 to 469.487.

[4.] 6. If [subdivision (5), (6), (7) or (8) of] subsection [3] 5 of this section applies to a [trustee and there is more than one trustee, a cotrustee to whom the provision does] fiduciary:

(1) A cofiduciary to which subdivisions (4) to (7) of subsection 5 of this section do not apply may [make] exercise the [adjustment] power to adjust unless the exercise of the power by the remaining [trustee or trustees] cofiduciary or cofiduciaries is not permitted by the terms of the trust or law other than sections 469.399 to 469.487; and

(2) If there is no cofiduciary to which subdivisions (4) to (7) of subsection 5 of this section do not apply, the fiduciary may appoint a cofiduciary to which subdivisions (4) to (7) of subsection 5 of this section do not apply, which may be a special fiduciary with limited powers, and the appointed cofiduciary may exercise the power to adjust under subsection 1 of this section, unless the appointment of a cofiduciary or the exercise of the power by a cofiduciary is not permitted by the terms of the trust or law other than under sections 469.399 to 469.487.

[5.] 7. A [trustee] fiduciary may release [the entire power conferred by subsection 1 of this section, or may release only the power to adjust from income to principal or the power to adjust from principal to income if the trustee is uncertain about whether possessing or exercising the power will] or delegate to a cofiduciary the power to adjust under subsection 1 of this section if the fiduciary determines that the fiduciary's possession or exercise of the power will or may:

(1) Cause a result described in subdivisions (1) to (6) or subdivision (8) of subsection [3] 5 of this section [,]; or [if the trustee determines that possessing or exercising the power will or may]

(2) Deprive the trust of a tax benefit or impose a tax burden not described in subdivisions (1) to (6) of subsection [3] 5 of this section.

8. A fiduciary's release or delegation to a cofiduciary under subsection 7 of this section of the power to adjust under subsection 1 of this section:

(1) Shall be in a record;

(2) Applies to the entire power, unless the release or delegation provides a limitation, which may be a limitation to the power to adjust:

(a) From income to principal;

(b) From principal to income;

(c) For specified property; or

(d) In specified circumstances;

(3) For a delegation, may be modified by a redelegation under this subsection by the cofiduciary to which the delegation is made; and

(4) Subject to subdivision (3) of this subsection, is [may be] permanent [or for] unless the release or delegation provides a specified period, including a period measured by the life of an individual or the lives of more than one individual.

[6.] 9. Terms of a trust that deny or limit the power [of a trustee] to [make an adjustment] adjust between income and principal [and income] do not affect the application of this section unless [it is clear from] the terms of the trust [that the terms are intended to] expressly deny [the trustee] or limit the power [of adjustment conferred by] to adjust under subsection 1 of this section.

10. The exercise of the power to adjust under subsection 1 of this section in any accounting period may apply to the current period, the immediately preceding period, and one or more subsequent periods.

11. A description of the exercise of the power to adjust under subsection 1 of this section shall be:

(1) Included in a report, if any, sent to beneficiaries under subsection 3 of section 456.8-813; or

(2) Communicated at least annually to the qualified beneficiaries defined under section 456.1-103 other than all beneficiaries that receive or are entitled to receive income from the trust or would be entitled to receive a distribution of principal if the trust were terminated at the time the notice is sent, assuming no power of appointment is exercised.

469.413. [After a decedent dies, in the case] 1. This section applies when:

(1) The death of an individual results in the creation of an estate[, or after] or trust; or

(2) An income interest in a trust [ends, the following rules apply:] terminates, whether the trust continues or is distributed.

[(1)] 2. A fiduciary of an estate or [of a terminating] trust with an income interest that terminates shall determine, under subsection 7 of this section and sections 469.417 to 469.462, the amount of net income and net principal receipts received from property specifically given to a beneficiary [pursuant to the rules in sections 469.417 to 469.461 which apply to trustees and the rules in subdivision (5) of this section]. The fiduciary shall distribute the net income and net principal receipts to the beneficiary [who] that is to receive the specific property[;].

[(2)] 3. A fiduciary shall determine the [remaining] income and net income of [a decedent's] an estate or [a terminating] income interest [pursuant to the rules in] in a trust that terminates, other than the amount of net income determined under subsection 2 of this section, under sections 469.417 to [469.461 which apply to trustees] 469.462 and by:

[(a)] (1) Including in net income all income from property used or sold to discharge liabilities;

[(b)] (2) Paying from income or principal, in the fiduciary's discretion, fees of attorneys, accountants, and fiduciaries[;], court costs and other expenses of administration[;], and interest on [death] estate and inheritance taxes and other taxes imposed because of the decedent's death, but the fiduciary may pay [those] the expenses from income of property passing to a trust for which the fiduciary claims [an] a federal estate tax marital or charitable deduction only to the extent [that]:

(a) The payment of [those] the expenses from income will not cause the reduction or loss of the deduction; [and] or

(b) The fiduciary makes an adjustment under subsection 2 of section 469.462; and

[(c)] (3) Paying from principal [all] other disbursements made or incurred in connection with the settlement of [a decedent's] the estate or the winding up of [a terminating] an income interest[,] that terminates, including:

(a) To the extent authorized by the decedent's will, the terms of the trust, or applicable law, debts, funeral expenses, disposition of remains, family allowances, [and death taxes] estate and inheritance taxes, and other taxes imposed because of the decedent's death; and

(b) Related penalties that are apportioned, by the decedent's will, the terms of the trust, or applicable law, to the estate or [terminating] income interest [by the will, the terms of the trust, or applicable law;] that terminates.

[(3) A fiduciary shall distribute to a beneficiary who receives a pecuniary amount outright the interest or any other amount provided by the will, the terms of the trust, or in the absence of any such provisions, the provisions of section 473.633, from net income determined pursuant to subdivision (2) of this section or from principal to the extent that net income is insufficient.]

4. If a decedent's will, the terms of a trust, or applicable law provides for the payment of interest or the equivalent of interest to a beneficiary that receives a pecuniary amount outright, the fiduciary shall make the payment from net income determined under subsection 3 of this section or from principal to the extent net income is insufficient.

5. If a beneficiary is to receive a pecuniary amount outright from a trust after an income interest ends because of an income beneficiary's death, and no payment of interest or [other amount] the equivalent of interest is provided for by the terms of the trust or applicable law, the fiduciary shall [distribute] pay the interest or [other amount] the equivalent of interest to which the beneficiary would be entitled under applicable law if the pecuniary amount were required to be paid under a will[;].

[(4)] 6. A fiduciary shall distribute [the] net income remaining after [distributions] payments required by [subdivision (3)] subsections 4 and 5 of this section in the manner described in section 469.415 to all other beneficiaries, including a beneficiary [who] that receives a pecuniary amount in trust, even if the beneficiary holds an

unqualified power to withdraw assets from the trust or other presently exercisable general power of appointment over the trust[;].

[(5)] 7. A fiduciary [may] shall not reduce principal or income receipts from property described in [subdivision (1)] subsection 2 of this section because of a payment described in sections 469.451 and 469.453 to the extent [that] the decedent's will, the terms of the trust, or applicable law requires the fiduciary to make the payment from assets other than the property or to the extent [that] the fiduciary recovers or expects to recover the payment from a third party. The net income and principal receipts from the property [are] shall be determined by including [all of] the amounts the fiduciary receives or pays [with respect to] regarding the property, whether [those amounts] the amount accrued or became due before, on, or after the date of [a] the decedent's death or an income interest's terminating event, and [by] making a reasonable provision for [amounts that the fiduciary believes] an amount the estate or [terminating] income interest may become obligated to pay after the property is distributed.

469.415. 1. [Each] Except to the extent sections 469.471 to 469.487 apply for a beneficiary that is a trust, each beneficiary described in subdivision [(4)] (6) of section 469.413 is entitled to receive a [portion] share of the net income equal to the beneficiary's fractional interest in undistributed principal assets, using values as of the distribution date. If a fiduciary makes more than one distribution of assets to beneficiaries to [whom] which this section applies, each beneficiary, including [one who] a beneficiary that does not receive part of the distribution, is entitled, as of each distribution date, to a share of the net income the fiduciary [has] received after

the [date of] decedent's death [or], an income interest's other terminating event, or [earlier] the preceding distribution [date but has not distributed as of the current distribution date] by the fiduciary.

2. In determining a beneficiary's share of net income under subsection 1 of this section, the following rules apply:

(1) The beneficiary is entitled to receive a [portion] share of the net income equal to the beneficiary's fractional interest in the undistributed principal assets immediately before the distribution date[, including assets that later may be sold to meet principal obligations];

(2) The beneficiary's fractional interest [in the undistributed principal assets shall] under subdivision (1) of this subsection shall be calculated [without regard to property specifically given to a beneficiary and property required to pay pecuniary amounts not in trust];

(3) The beneficiary's fractional interest in the undistributed principal assets shall be calculated] :

(a) On the [basis of the] aggregate value of [those] the assets as of the distribution date without reducing the value by any unpaid principal obligation; and

(b) Without regard to:

a. Property specifically given to a beneficiary under the decedent's will or the terms of the trust; and

b. Property required to pay pecuniary amounts not in trust; and

[(4)] (3) The distribution date [for purposes of this section] under subdivision (1) of this subsection may be the date as of which the fiduciary calculates the value of the assets if that date is reasonably near the date on which the assets are [actually] distributed.

3. [If] To the extent a fiduciary does not distribute under this section all [of] the collected but undistributed net income to each [person] beneficiary as of a distribution date, the fiduciary shall maintain [appropriate] records showing the interest of each beneficiary in [that] the net income.

4. If this section applies to income from an asset, a fiduciary may apply the rules in this section[, to the extent that the fiduciary considers it appropriate,] to net gain or loss realized from the disposition of the asset after the [date of death or] decedent's death, an income interest's terminating event, or [earlier] the preceding distribution [date from the disposition of a principal asset if this section applies to the income from the asset] by the fiduciary.

469.417. 1. An income beneficiary is entitled to net income in accordance with the terms of the trust from the date [on which the] an income interest begins. [An] The income interest begins on the date specified in the terms of the trust or, if no date is specified, on the date an asset becomes subject to [a trust or successive income interest]:

- (1) The trust for the current income beneficiary; or
- (2) A successive interest for a successor beneficiary.

2. An asset becomes subject to a trust under subdivision (1) of subsection 1 of this section:

(1) [On the date it is transferred to the trust in the case of] For an asset that is transferred to [a] the trust during the [transferor's] settlor's life, on the date the asset is transferred;

(2) [On the date of a testator's death in the case of] For an asset that becomes subject to [a] the trust [by reason] because of a [will] decedent's death, on the date of

the decedent's death, even if there is an intervening period of administration of the [testator's] decedent's estate; or

(3) [On the date of an individual's death in the case of] For an asset that is transferred to a fiduciary by a third party because of [the individual's] a decedent's death, on the date of the decedent's death.

3. An asset becomes subject to a successive [income] interest under subdivision (2) of subsection 1 of this section on the day after the preceding income interest ends, as determined [pursuant to] under subsection 4 of this section, even if there is an intervening period of administration to wind up the preceding income interest.

4. An income interest ends on the day before an income beneficiary dies or another terminating event occurs [,] or on the last day of a period during which there is no beneficiary to [whom] which a [trustee] fiduciary may or shall distribute income.

469.419. 1. A [trustee] fiduciary shall allocate an income receipt or disbursement, other than [one] a receipt to which [subdivision (1)] subsection 2 of section 469.413 applies, to principal if its due date occurs before [a decedent dies in the case of] the date on which:

(1) For an estate, the decedent died; or [before]

(2) For a trust or successive interest, an income interest begins [in the case of a trust or successive income interest].

2. [A trustee shall allocate an income receipt or disbursement to income if its] If the due date of a periodic income receipt or disbursement occurs on or after the date on which a decedent [dies] died or an income interest [begins and it is a periodic due date. An income] began, a fiduciary shall allocate the receipt or disbursement to income.

3. If an income receipt or disbursement is not periodic or has no due date, a fiduciary shall [be treated] treat the receipt or disbursement under this section as accruing from day to day [if its due date is not periodic or it has no due date]. The fiduciary shall allocate to principal the portion of the receipt or disbursement accruing before the date on which a decedent [dies] died or an income interest [begins shall be allocated to principal] began, and to income the balance [shall be allocated to income].

[3.] 4. A receipt or disbursement is periodic under subsections 2 and 3 of this section if:

(1) The receipt or disbursement shall be paid at regular intervals under an obligation to make payments; or

(2) The payer customarily makes payments at regular intervals.

5. An item of income or [an] obligation is due under this section on the date [a payment] the payer is required to make a payment. If a payment date is not stated, there is no due date [for the purposes of sections 469.401 to 469.467].

6. Distributions to shareholders or other owners from an entity to which section 469.423 applies are [deemed to be] due:

(1) On the date fixed by or on behalf of the entity for determining [who is] the persons entitled to receive the distribution [or,];

(2) If no date is fixed, on the [declaration] date [for] of the decision by or on behalf of the entity to make the distribution[. A due date is periodic for receipts or disbursements that shall be paid at regular intervals under a lease or an obligation to pay interest or if an entity customarily makes distributions at regular intervals]; or

(3) If no date is fixed and the fiduciary does not know the date of the decision by or on behalf of the entity to make the distribution, on the date the fiduciary learns of the decision.

469.421. 1. [For purposes of] As used in this section, the [phrase] term "undistributed income" means net income received on or before the date on which an income interest ends. The [phrase] term "undistributed income" does not include an item of income or expense that is due or accrued[,] or net income that has been added or is required to be added to principal under the terms of the trust.

2. Except as otherwise provided in subsection 3 of this section, when a mandatory income interest of a beneficiary ends, the [trustee] fiduciary shall pay [to a mandatory income beneficiary who survives that date, or the estate of a deceased mandatory income beneficiary whose death causes the interest to end,] the beneficiary's share of the undistributed income that is not disposed of under the terms of the trust [unless the] to the beneficiary or, if the beneficiary does not survive the date the interest ends, to the beneficiary's estate.

3. If a beneficiary has an unqualified power to [revoke] withdraw more than five percent of the value of a trust immediately before [the] an income interest ends[. In the latter case,]:

(1) The fiduciary shall allocate to principal the undistributed income from the portion of the trust that may be [revoked shall be added to principal] withdrawn; and

(2) Subsection 2 of this section applies only to the balance of the undistributed income.

[3.] 4. When a [trustee's] fiduciary's obligation to pay a fixed annuity or a fixed fraction of the value of [the trust's] assets ends, the [trustee] fiduciary shall prorate

the final payment [if and to the extent] as required [by applicable law to accomplish a purpose of the trust or its settlor relating] to preserve an income tax, gift tax, estate tax, or other tax [requirements] benefit.

469.423. 1. [For purposes of] As used in this section, the [term] following terms mean:

(1) "Capital distribution", an entity distribution of money that is a:

(a) Return of capital; or

(b) Distribution in total or partial liquidation of the entity;

(2) "Entity" [means]:

(a) A corporation, partnership, limited liability company, regulated investment company, real estate investment trust, common trust fund, or any other organization [in which a trustee has an interest, other than a trust or estate to which section 469.425 applies, a business or activity to which section 469.427 applies, or an asset-backed security to which section 469.449 applies.] or arrangement in which a fiduciary owns or holds an interest, whether or not the entity is a taxpayer for federal income tax purposes; and

(b) The term "entity" does not include:

a. A trust or estate to which section 469.425 applies;

b. A business or other activity to which section 469.427 applies that is not conducted by an entity described in paragraph (a) of this subdivision;

c. An asset-backed security; or

d. An instrument or arrangement to which section 469.446 applies;

(3) "Entity distribution", a payment or transfer by an entity made to a person in the person's capacity as an owner or holder of an interest in the entity.

2. In this section, an attribute or action of an entity includes an attribute or action of any other entity in which the entity owns or holds an interest, including an interest owned or held indirectly through another entity.

[2.] 3. Except as otherwise provided in [this section] subdivisions (2) to (4) of subsection 4 of this section, a [trustee] fiduciary shall allocate to income:

(1) Money received [from] in an entity[.

3. A trustee shall allocate the following receipts from an entity to principal:

(1) Property other than money;

(2) Money received in one distribution or a series of related distributions in exchange for part or all of a trust's interest in the entity;

(3) Money received in total or partial liquidation of the entity; and

(4) Money received from an entity that is] distribution; and

(2) Tangible personal property of nominal value received from the entity.

4. A fiduciary shall allocate to principal:

(1) Property received in an entity distribution that is not:

(a) Money; or

(b) Tangible personal property of nominal value;

(2) Money received in an entity distribution in an exchange for part or all of the fiduciary's interest in the entity, to the extent the entity distribution reduces the fiduciary's interest in the entity relative to the interests of other persons that own or hold interests in the entity;

(3) Money received in an entity distribution that the fiduciary determines or estimates is a capital distribution; and

(4) Money received in an entity distribution from an entity that is:

(a) A regulated investment company or [a] real estate investment trust if the money [distributed] received is a capital gain dividend for federal income tax purposes[.

4. Money is received in partial liquidation:

(1) To the extent that the entity, at or near the time of a distribution, indicates that such money is a distribution in partial liquidation; or

(2) If]; or

(b) Treated for federal income tax purposes comparably to the treatment described in paragraph (a) of this subdivision.

5. A fiduciary may determine or estimate that money received in an entity distribution is a capital distribution:

(1) By relying, without inquiry or investigation, on a characterization of the entity distribution provided by or on behalf of the entity, unless the fiduciary:

(a) Determines, on the basis of information known to the fiduciary, that the characterization is or may be incorrect; or

(b) Owns or holds more than fifty percent of the voting interest in the entity;

(2) By determining or estimating, on the basis of information known to the fiduciary or provided to the fiduciary by or on behalf of the entity, that the total amount of money and property received by the fiduciary in [a] the entity distribution or a series of related entity distributions is or will be greater than twenty percent of the [entity's gross assets, as shown by the entity's year-end financial statements immediately preceding the initial receipt.

5. Money is not received in partial liquidation, nor may it be taken into account pursuant to subdivision (2) of subsection 4 of this section, to the extent that such money does not exceed the amount of income tax that a trustee or beneficiary shall pay on taxable income of the entity that distributes the money.

6. A trustee may rely upon a statement made by an entity about the source or character of a distribution if the statement is made at or near the time of distribution by the entity's board of directors or other person or group of persons authorized to exercise powers to pay money or transfer property comparable to those of a corporation's board of directors.] fair market value of the fiduciary's interest in the entity; or

(3) If neither subdivision (1) nor (2) of this subsection applies, by considering the factors in subsection 6 of this section and the information known to the fiduciary or provided to the fiduciary by or on behalf of the entity.

6. In making a determination or estimate under subdivision (3) of subsection 5 of this section, a fiduciary may consider:

(1) A characterization of an entity distribution provided by or on behalf of the entity;

(2) The amount of money or property received in:

(a) The entity distribution; or

(b) What the fiduciary determines is or will be a series of related entity distributions;

(3) The amount described in subdivision (2) of this subsection compared to the amount the fiduciary determines or estimates is, during the current or preceding accounting periods:

(a) The entity's operating income;

(b) The proceeds of the entity's sale or other disposition of:

a. All or part of the business or other activity conducted by the entity;

b. One or more business assets that are not sold to customers in the ordinary course of the business or other activity conducted by the entity; or

c. One or more assets other than business assets, unless the entity's primary activity is to invest in assets to realize gain on the disposition of all or some of the assets;

(c) If the entity's primary activity is to invest in assets to realize gain on the disposition of all or some of the assets, the gain realized on the disposition;

(d) The entity's regular, periodic entity distributions;

(e) The amount of money the entity has accumulated;

(f) The amount of money the entity has borrowed;

(g) The amount of money the entity has received from the sources described in sections 469.433, 469.439, 469.441, and 469.443; and

(h) The amount of money the entity has received from a source not otherwise described in this subdivision; and

(4) Any other factor the fiduciary determines is relevant.

7. If, after applying subsections 3 to 6 of this section, a fiduciary determines that a part of an entity distribution is a capital distribution but is in doubt about the amount of the entity distribution that is a capital distribution, the fiduciary shall allocate to principal the amount of the entity distribution that is in doubt.

8. If a fiduciary receives additional information about the application of this section to an entity

distribution before the fiduciary has paid part of the entity distribution to a beneficiary, the fiduciary may consider the additional information before making the payment to the beneficiary and may change a decision to make the payment to the beneficiary.

9. If a fiduciary receives additional information about the application of this section to an entity distribution after the fiduciary has paid part of the entity distribution to a beneficiary, the fiduciary is not required to change or recover the payment to the beneficiary but may consider that information in determining whether to exercise the power to adjust under section 469.405.

469.425. A [trustee] fiduciary shall allocate to income an amount received as a distribution of income, including a unitrust distribution under sections 469.471 to 469.487, from a trust or [an] estate in which the [trust] fiduciary has an interest, other than [a] an interest the fiduciary purchased [interest] in a trust that is an investment entity, and shall allocate to principal an amount received as a distribution of principal from [such a] the trust or estate. If a [trustee] fiduciary purchases, or receives from a settlor, an interest in a trust that is an investment entity, [or a decedent or donor transfers an interest in such a trust to a trustee,] section 469.423 [or], 469.446, or 469.449 [shall apply] applies to a receipt from the trust.

469.427. 1. [If a trustee who conducts] This section applies to a business or other activity conducted by a fiduciary if the fiduciary determines that it is in the [best interest] interests of [all] the beneficiaries to account separately for the business or other activity instead of:

(1) Accounting for [it] the business or other activity as part of the [trust's] fiduciary's general accounting records[,]; or

(2) Conducting the [trustee] business or other activity through an entity described in paragraph (a) of subdivision (2) of subsection 1 of section 469.423.

2. A fiduciary may [maintain separate accounting records] account separately under this section for [its] the transactions of a business or other activity, whether or not [its] assets of the business or other activity are segregated from other [trust] assets held by the fiduciary.

[2.] 3. A [trustee who] fiduciary that accounts separately under this section for a business or other activity:

(1) May determine:

(a) The extent to which the net cash receipts [shall] of the business or other activity shall be retained for:

a. Working capital[,];

b. The acquisition or replacement of fixed assets[,];

and

c. Other reasonably foreseeable needs of the business or other activity[,]; and

(b) The extent to which the remaining net cash receipts are accounted for as principal or income in the [trust's] fiduciary's general accounting records[. If a trustee sells assets of the business or other activity, other than in the ordinary course of the business or activity, the trustee] for the trust;

(2) May make a determination under subdivision (1) of this subsection separately and differently from the fiduciary's decisions concerning distributions of income or principal; and

(3) Shall account for the net amount received from the sale of an asset of the business or other activity, other than a sale in the ordinary course of the business or other activity, as principal in the [trust's] fiduciary's general accounting records for the trust, to the extent the [trustee] fiduciary determines that the net amount received is no longer required in the conduct of the business or other activity.

[3.] 4. Activities for which a [trustee may maintain separate accounting records] fiduciary may account separately under this section include:

- (1) Retail, manufacturing, service, and other traditional business activities;
- (2) Farming;
- (3) Raising and selling livestock and other animals;
- (4) [Management of] Managing rental properties;
- (5) [Extraction of] Extracting minerals, water, and other natural resources;
- (6) Growing and cutting timber [operations]; [and]
- (7) [Activities] An activity to which section 469.446, 469.447, or 469.449 applies[.]; and
- (8) Any other business conducted by the fiduciary.

469.429. A [trustee] fiduciary shall allocate to principal:

(1) To the extent not allocated to income [pursuant to] under sections [469.401] 469.399 to [469.467] 469.487, [assets] an asset received from [a transferor]:

(a) An individual during the [transferor's] individual's lifetime[, a decedent's];

(b) An estate[.];

(c) A trust [with a terminating] on termination of an income interest[.]; or

(d) A payer under a contract naming the [trust or its trustee] fiduciary as beneficiary;

(2) Except as otherwise provided in sections 469.423 to 469.449, money or other property received from the sale, exchange, liquidation, or change in form of a principal asset[, including realized profit, subject to sections 469.423 to 469.467];

(3) [Amounts] An amount recovered from a third [parties] party to reimburse the [trust] fiduciary because of [disbursements] a disbursement described in [subdivision (7) of] subsection 1 of section 469.453 or for [other reasons] another reason to the extent not based on [the] loss of income;

(4) Proceeds of property taken by eminent domain, [but a separate award made] except that proceeds awarded for [the] loss of income [with respect to] in an accounting period [during which] are income if a current income beneficiary had a mandatory income interest [is income] during the period;

(5) Net income received in an accounting period during which there is no beneficiary to [whom] which a [trustee] fiduciary may or shall distribute income; and

(6) Other receipts as provided in sections 469.435 to 469.449.

469.431. To the extent [that a trustee accounts] a fiduciary does not account for [receipts from] the management of rental property [pursuant to this section] as a business under section 469.427, the [trustee] fiduciary shall allocate to income an amount received as rent of real or personal property, including an amount received for cancellation or renewal of a lease. An amount received as a refundable deposit, including a security deposit or a deposit that is to be applied as rent for future periods[,

shall be added to principal and held subject to the terms of the lease and is not available for distribution to a beneficiary until the trustee's contractual obligations have been satisfied with respect to that amount.]:

(1) Shall be added to principal and held subject to the terms of the lease, except as otherwise provided by law other than sections 469.399 to 469.487; and

(2) Is not allocated to income or available for distribution to a beneficiary until the fiduciary's contractual obligations have been satisfied with respect to that amount.

469.432. 1. This section does not apply to an obligation to which section 469.437, 469.439, 469.441, 469.443, 469.446, 469.447, or 469.449 applies.

2. A fiduciary shall allocate to income, without provision for amortization of premium, an amount received as interest[, whether determined at a fixed, variable or floating rate,] on an obligation to pay money to the [trustee] fiduciary, including an amount received as consideration for prepaying principal[, shall be allocated to income without any provision for amortization of premium].

[2.] 3. A [trustee] fiduciary shall allocate to principal an amount received from the sale, redemption, or other disposition of an obligation to pay money to the [trustee more than one year after it is purchased or acquired by the trustee, including an obligation whose purchase price or value when it is acquired is less than its value at maturity. If the obligation matures within one year after it is purchased or acquired by the trustee, an amount received in excess of its purchase price or its value when acquired by the trust shall be allocated to income] fiduciary. A fiduciary shall allocate to income the increment in value of a bond or other obligation for the

payment of money bearing no stated interest but payable or redeemable, at maturity or another future time, in an amount that exceeds the amount in consideration of which it was issued.

[3. This section does not apply to an obligation to which section 469.437, 469.439, 469.441, 469.443, 469.447 or 469.449 applies.]

469.433. 1. This section does not apply to a contract to which section 469.437 applies.

2. Except as otherwise provided in subsection [2] 3 of this section, a [trustee] fiduciary shall allocate to principal the proceeds of a life insurance policy or other contract [in which the trust or its trustee is named] received by the fiduciary as beneficiary, including a contract that insures [the trust or its trustee] against [loss for] damage to, destruction of, or loss of title to [a trust] an asset. The [trustee] fiduciary shall allocate dividends on an insurance policy to income [if] to the extent premiums on the policy are paid from income[,], and to principal [if] to the extent premiums on the policy are paid from principal.

[2.] 3. A [trustee] fiduciary shall allocate to income proceeds of a contract that insures the [trustee] fiduciary against loss of:

(1) Occupancy or other use by [an income beneficiary, loss of] a current income[,], beneficiary;

(2) Income; or[,]

(3) Subject to section 469.427, [loss of] profits from a business.

[3. This section does not apply to a contract to which section 469.437 applies.]

469.435. 1. If a [trustee] fiduciary determines that an allocation between income and principal [and income]

required by section 469.437, 469.439, 469.441, 469.443 or 469.449 is insubstantial, the trustee fiduciary may allocate the entire amount to principal, unless one of the circumstances described in subsection 3 5 of section 469.405 applies to the allocation. This power

2. A fiduciary may be exercised by a cotrustee in the circumstances described in subsection 4 of section 469.405 and may be released for the reasons and in the manner described in subsection 5 of section 469.405. presume an allocation is presumed to be insubstantial under subsection 1 of this section if:

(1) The amount of the allocation would increase or decrease net income in an accounting period, as determined before the allocation, by less than ten percent; or and

(2) The value of The asset producing the receipt for which the allocation would to be made is allocated has a fair market value less than ten percent of the total fair market value of the trust's assets owned or held by the fiduciary at the beginning of the accounting period.

3. The power to make a determination under subsection 1 of this section may be:

(1) Exercised by a cofiduciary in the manner described in subsection 6 of section 469.405; or

(2) Released or delegated for a reason described in subsection 7 of section 469.405 and in the manner described in subsection 8 of section 469.405.

469.437. 1. As used in this section, the following terms mean:

(1) "Payment", an amount that is:

(a) Received or withdrawn from a plan; or

(b) One of a series of distributions that have been or will be received over a fixed number of years or during the life of one or more individuals under any contractual or

other arrangement, or is a single payment from a plan that the trustee could have received over a fixed number of years or during the life of one or more individuals;

(2) "Plan", a contractual, custodial, trust or other arrangement that provides for distributions to the trust, including, but not limited to, qualified retirement plans, Individual Retirement Accounts, Roth Individual Retirement Accounts, public and private annuities, and deferred compensation, including payments received directly from an entity as defined in section 469.423 regardless of whether or not such distributions are made from a specific fund or account.

2. If any portion of a payment is characterized as a distribution to the trustee of interest, dividends or a dividend equivalent, the trustee shall allocate the portion so characterized to income. The trustee shall allocate the balance of that payment to principal.

3. If no part of a payment is allocated to income pursuant to subsection 2 of this section, then for each accounting period of the trust that any payment is received by the trust with respect to the trust's interest in a plan, the trustee shall allocate to income that portion of the aggregate value of all payments received by the trustee in that accounting period equal to the amount of plan income attributable to the trust's interest in the plan for that calendar year. The trustee shall allocate the balance of that payment to principal.

4. For purposes of this section, if a payment is received from a plan that maintains a separate account or fund for its participants or account holders, including, but not limited to, defined contribution retirement plans, Individual Retirement Accounts, Roth Individual Retirement Accounts, and some types of deferred compensation plans, the

phrase "plan income" shall mean either the amount of the plan account or fund held for the benefit of the trust that, if the plan account or fund were a trust, would be allocated to income pursuant to sections 469.401 to 469.467 for that accounting period, or four percent of the value of the plan account or fund on the first day of that accounting period. The method of determining plan income pursuant to this subsection shall be chosen by the trustee in the trustee's discretion. The trustees may change the method of determining plan income pursuant to this subsection for any future accounting period.

5. For purposes of this section if the payment is received from a plan that does not maintain a separate account or fund for its participants or account holders, including by way of example and not limitation defined benefit retirement plans and some types of deferred compensation plans, the term "plan income" shall mean four percent of the total present value of the trust's interest in the plan as of the first day of the accounting period, based on reasonable actuarial assumptions as determined by the trustee.

6. Notwithstanding subsections 1 to 5 of this section, with respect to a trust where an election to qualify for a marital deduction under Section 2056(b)(7) or Section 2523(f) of the Internal Revenue Code of 1986, as amended, has been made, or a trust that qualified for the marital deduction under either Section 2056(b)(5) or Section 2523(e) of the Internal Revenue Code of 1986, as amended, a trustee shall determine the plan income for the accounting period as if the plan were a trust subject to sections 469.401 to 469.467. Upon request of the surviving spouse, the trustee shall demand that the person administering the plan distribute the plan income to the trust. The trustee shall

allocate a payment from the plan to income to the extent of the plan income and distribute that amount to the surviving spouse. The trustee shall allocate the balance of the payment to principal. Upon request of the surviving spouse, the trustee shall allocate principal to income to the extent the plan income exceeds payments made from the plan to the trust during the accounting period.

7. If, to obtain an estate or gift tax marital deduction for a trust, a trustee shall allocate more of a payment to income than provided for by this section, the trustee shall allocate to income the additional amount necessary to obtain the marital deduction.] "Internal income of a separate fund", the amount determined under subsection 2 of this section;

(2) "Marital trust", a trust:

(a) Of which the settlor's surviving spouse is the only current income beneficiary and is entitled to a distribution of all the current net income of the trust; and

(b) That qualifies for a marital deduction with respect to the settlor's estate under 26 U.S.C. Section 2056, as amended, because:

a. An election to qualify for a marital deduction under 26 U.S.C. Section 2056(b) (7), as amended, has been made; or

b. The trust qualifies for a marital deduction under 26 U.S.C. Section 2056(b) (5), as amended;

(3) "Payment", an amount a fiduciary may receive over a fixed number of years or during the life of one or more individuals because of services rendered or property transferred to the payer in exchange for future amounts the fiduciary may receive. The term "payment" includes an amount received in money or property from the payer's general assets or from a separate fund created by the payer;

(4) "Separate fund" includes a private or commercial annuity, an individual retirement account, and a pension, profit-sharing, stock bonus, or stock ownership plan.

2. For each accounting period, the following rules apply to a separate fund:

(1) The fiduciary shall determine the internal income of the separate fund as if the separate fund was a trust subject to sections 469.399 to 469.487;

(2) If the fiduciary cannot determine the internal income of the separate fund under subdivision (1) of this subsection, the internal income of the separate fund is deemed to equal three percent of the value of the separate fund, according to the most recent statement of value preceding the beginning of the accounting period; and

(3) If the fiduciary cannot determine the value of the separate fund under subdivision (2) of this subsection, the value of the separate fund is deemed to equal the present value of the expected future payments, as determined under 26 U.S.C. Section 7520, as amended, for the month preceding the beginning of the accounting period for which the computation is made.

3. A fiduciary shall allocate a payment received from a separate fund during an accounting period to income, to the extent of the internal income of the separate fund during the period, and the balance to principal.

4. The fiduciary of a marital trust shall:

(1) Withdraw from a separate fund the amount the current income beneficiary of the trust requests the fiduciary to withdraw, not greater than the amount by which the internal income of the separate fund during the accounting period exceeds the amount the fiduciary otherwise receives from the separate fund during the period;

(2) Transfer from principal to income the amount the current income beneficiary requests the fiduciary to transfer, not greater than the amount by which the internal income of the separate fund during the period exceeds the amount the fiduciary receives from the separate fund during the period after the application of subdivision (1) of this subsection; and

(3) Distribute to the current income beneficiary as income:

(a) The amount of the internal income of the separate fund received or withdrawn during the period; and

(b) The amount transferred from principal to income under subdivision (2) of this subsection.

5. For a trust, other than a marital trust, of which one or more current income beneficiaries are entitled to a distribution of all the current net income, the fiduciary shall transfer from principal to income the amount by which the internal income of a separate fund during the accounting period exceeds the amount the fiduciary receives from the separate fund during the period.

469.439. 1. As used in this section, the [phrase] term "liquidating asset" means an asset whose value will diminish or terminate because the asset is expected to produce receipts for a [period of] limited [duration] time. The [phrase] term "liquidating asset" includes a leasehold, patent, copyright, royalty right, and right to receive payments during a period of more than one year under an arrangement that does not provide for the payment of interest on the unpaid balance. [The phrase]

2. This section does not [include a payment] apply to a receipt subject to section 469.423, 469.437, [resources subject to section] 469.441, [timber subject to section] 469.443, [an activity subject to section] 469.446, 469.447,

[an asset subject to section] 469.449, or [any asset for which the trustee establishes a reserve for depreciation pursuant to section] 469.455.

[2.] 3. A [trustee] fiduciary shall allocate:

(1) To income [ten percent of the receipts from]:

(a) A receipt produced by a liquidating asset [and the balance], to the extent the receipt does not exceed three percent of the value of the asset; or

(b) If the fiduciary cannot determine the value of the asset, ten percent of the receipt; and

(2) To principal, the balance of the receipt.

469.441. 1. To the extent [that a trustee accounts for receipts] a fiduciary does not account for a receipt from an interest in minerals, water, or other natural resources [pursuant to this section] as a business under section 469.427, the [trustee] fiduciary shall allocate [them as follows] the receipt:

(1) [If] To income, to the extent received:

(a) As [nominal] delay rental or [nominal] annual rent on a lease[, a receipt shall be allocated to income];

(b) As a factor for interest or the equivalent of interest under an agreement creating a production payment; or

(c) On account of an interest in renewable water;

(2) To principal, if received from a production payment, [a receipt shall be allocated to income if and to the extent that the agreement creating the production payment provides a factor for interest or its equivalent. The balance shall be allocated to principal;] to the extent paragraph (b) of subdivision (1) of this subsection does not apply; or

(3) [If an amount received] Between income and principal equitably, to the extent received:

(a) On account of an interest in nonrenewable water;

(b) As a royalty, shut-in-well payment, take-or-pay payment, or bonus ~~[or delay rental is more than nominal, ninety percent shall be allocated to principal and the balance to income]; or~~

~~[(4) If an amount is received]~~ (c) From a working interest or any other interest not provided for in subdivision (1) ~~[,] or (2) [or (3)]~~ of this subsection ~~[, ninety percent of the net amount received shall be allocated to principal and the balance to income]~~ or paragraph (a) or (b) of this subdivision.

2. ~~[An amount received on account of]~~ This section applies to an interest ~~[in water that is renewable shall be allocated to income. If the water is not renewable, ninety percent of the amount shall be allocated to principal and the balance to income.]~~

3. ~~Sections 469.401 to 469.467 apply]~~ owned or held by a fiduciary whether or not a ~~[decedent or donor]~~ settlor was extracting minerals, water, or other natural resources before the fiduciary owned or held the interest ~~[became subject to the trust]~~.

3. An allocation of a receipt under subdivision (3) of subsection 1 of this section is presumed to be equitable if the amount allocated to principal is equal to the amount allowed by Title 26 of the United States Code, as amended, as a deduction for depletion of the interest.

4. If a ~~[trust]~~ fiduciary owns or holds an interest in minerals, water, or other natural resources ~~[on] before~~ August 28, ~~[2001] 2024~~, the ~~[trustee]~~ fiduciary may allocate receipts from the interest as provided in ~~[sections 469.401 to 469.467]~~ this section or in the manner used by the ~~[trustee]~~ fiduciary before August 28, ~~[2001] 2024~~. If the ~~[trust]~~ fiduciary acquires an interest in minerals, water, or other natural resources on or after August 28, ~~[2001]~~

2024, the [trustee] fiduciary shall allocate receipts from the interest as provided in [sections 469.401 to 469.467] this section.

469.443. 1. To the extent [that a trustee accounts] a fiduciary does not account for receipts from the sale of timber and related products [pursuant to this section] as a business under section 469.427, the [trustee] fiduciary shall allocate the net receipts:

(1) To income, to the extent [that] the amount of timber [removed] cut from the land does not exceed the rate of growth of the timber [during the accounting periods in which a beneficiary has a mandatory income interest];

(2) To principal, to the extent [that] the amount of timber [removed] cut from the land exceeds the rate of growth of the timber or the net receipts are from the sale of standing timber;

(3) [To or] Between income and principal if the net receipts are from the lease of [timberland] land used for growing and cutting timber or from a contract to cut timber from land [owned by a trust], by determining the amount of timber [removed] cut from the land under the lease or contract and applying the rules in subdivisions (1) and (2) of this subsection; or

(4) To principal, to the extent [that] advance payments, bonuses, and other payments are not allocated [pursuant to either] under subdivision (1), (2), or (3) of this subsection.

2. In determining net receipts to be allocated [pursuant to] under subsection 1 of this section, a [trustee] fiduciary shall deduct and transfer to principal a reasonable amount for depletion.

3. [Sections 469.401 to 469.467 apply] This section applies to land owned or held by a fiduciary whether or not

a [decedent or transferor] settlor was [harvesting] cutting timber from the land before the fiduciary owned or held the property [before it became subject to the trust].

4. If a [trust] fiduciary owns or holds an interest in [timberland on] land used for growing and cutting timber before August 28, [2001] 2024, the [trustee] fiduciary may allocate net receipts from the sale of timber and related products as provided in [sections 469.401 to 469.467] this section or in the manner used by the [trustee] fiduciary before August 28, [2001] 2024. If the [trust] fiduciary acquires an interest in [timberland] land used for growing and cutting timber on or after August 28, [2001] 2024, the [trustee] fiduciary shall allocate net receipts from the sale of timber and related products as provided in [sections 469.401 to 469.467] this section.

469.445. 1. If a trust received property for which a gift or estate tax marital deduction [is allowed for all or part of a trust whose] was allowed and the settlor's spouse holds a mandatory income interest in the trust, the spouse may require the trustee, to the extent the trust assets [consist substantially of property that does] otherwise do not provide the spouse with sufficient income from or use of the trust assets[, and if the amounts that the trustee transfers from principal to income pursuant to section 469.405 and distributes to the spouse from principal pursuant to the terms of the trust are insufficient to provide the spouse with the beneficial enjoyment required to obtain the marital] to qualify for the deduction, [the spouse may require the trustee] to:

(1) Make property productive of income[,];

(2) Convert property to property productive of income within a reasonable time[,]; or

(3) Exercise the power [conferred by subsection 1 of]
to adjust under section 469.405.

2. The trustee may decide which action or combination
of actions in subsection 1 of this section to take.

[2. In cases not governed by subsection 1 of this
section, proceeds from the sale or other disposition of an
asset are principal without regard to the amount of income
the asset produces during any accounting period.]

469.446. A fiduciary shall allocate receipts from or
related to a financial instrument or arrangement not
otherwise addressed by sections 469.399 to 469.487. The
allocation shall be consistent with sections 469.447 and
469.449.

469.447. 1. As used in this section, the term
"derivative" means a contract [or financial], instrument,
other arrangement, or [a] combination of contracts [and
financial], instruments, or other arrangements, the value,
rights, and obligations of which [gives a trust the right or
obligation to participate in some or all changes in the
price of a] are, in whole or in part, dependent on or
derived from an underlying tangible or intangible asset [or
group of assets, or changes in a rate, an index of prices
or], group of tangible or intangible assets, index, or
occurrence of an event. The term "derivative" includes
stocks, fixed income securities, and financial instruments
and arrangements based on indices, commodities, interest
rates, [or other market indicator for an asset or a group of
assets] weather-related events, and credit default events.

2. To the extent [that a trustee] a fiduciary does not
account [pursuant to section 469.427 for transactions] for a
transaction in derivatives[, the trustee] as a business
under section 469.427, the fiduciary shall allocate [to
principal] ten percent of receipts from the transaction and

ten percent of disbursements made in connection with [those transactions] the transaction to income and the balance to principal.

3. The provisions of subsection 4 of this section apply if:

(1) A [trustee] fiduciary:

(a) Grants an option to buy property from [the] a trust, whether or not the trust owns the property when the option is granted[,];

(b) Grants an option that permits another person to sell property to the trust[,];

(c) Acquires an option to buy property for the trust or an option to sell an asset owned by the trust[,];

(2) The [trustee] fiduciary or other owner of the asset is required to deliver the asset if the option is exercised[,].

4. If this subsection applies, the fiduciary shall allocate ten percent to income and the balance to principal of the following amounts:

(1) An amount received for granting the option [shall be allocated to principal.];

(2) An amount paid to acquire the option [shall be paid from principal. A]; and

(3) Gain or loss realized [upon] on the exercise [of an option, including an option granted to a settlor], exchange, settlement, offset, closing, or expiration of the [trust for services rendered, shall be allocated to principal] option.

469.449. 1. [As used in this section, the phrase "asset-backed security" means an asset whose value is based upon the right it gives the owner to receive distributions from the proceeds of financial assets that provide collateral for the security. The phrase includes an asset

that gives the owner the right to receive from the collateral financial assets only the interest or other current return or only the proceeds other than interest or current return. The phrase does not include an asset to which section 469.423 or 469.437 applies.

2. If a trust receives a payment from interest or other current return and from other proceeds of the collateral financial assets, the trustee] Except as otherwise provided in subsection 2 of this section, a fiduciary shall allocate to income [the portion of] a receipt from or related to an asset-backed security, to the extent the [payment which the] payer identifies the payment as being from interest or other current return, and [shall allocate] to principal the balance of the [payment to principal] receipt.

[3.] 2. If a [trust] fiduciary receives one or more payments in exchange for part or all of the [trust's entire] fiduciary's interest in an asset-backed security [in one accounting period, the trustee shall allocate the payments to principal. If a payment is one of a series of payments that will result in the], including a liquidation or redemption of the [trust's] fiduciary's interest in the security [over more than one accounting period,] the [trustee] fiduciary shall allocate [ten] to income ten percent of receipts from the [payment to income] transaction and [the balance to principal] ten percent of disbursements made in connection with the transaction, and to principal the balance of the receipts and disbursements.

469.451. [A trustee shall make the following disbursements from income to the extent that they are not disbursements to which paragraph (b) or (c) of] Subject to section 469.456, and except as otherwise provided in

subdivision (2) or (3) of subsection 3 of section 469.413
[applies], a fiduciary shall disburse from income:

(1) One-half of:

(a) The regular compensation of the [trustee]
fiduciary and [of] any person providing investment advisory
[or], custodial, or other services to the [trustee]
fiduciary, to the extent income is sufficient; and

[(2) One-half of all expenses] (b) An expense for
[accountings] an accounting, judicial [proceedings] or
nonjudicial proceeding, or other [matters] matter that
[involve] involves both [the] income and [remainder]
successive interests, to the extent income is sufficient;

[(3) All of the other] (2) The balance of the
disbursements described in subdivision (1) of this section,
to the extent a fiduciary that is an independent person
determines that making those disbursements from income would
be in the interests of the beneficiaries;

(3) Another ordinary [expenses] expense incurred in
connection with [the] administration, management, or
preservation of [trust] property and [the] distribution of
income, including interest, an ordinary [repairs] repair,
regularly recurring [taxes] tax assessed against principal,
and [expenses] an expense of [a] an accounting, judicial or
nonjudicial proceeding, or other matter that [concerns]
involves primarily [the] an income interest, to the extent
income is sufficient; and

(4) [Recurring premiums] A premium on insurance
covering [the] loss of a principal asset or [the loss of]
income from or use of the asset.

469.453. 1. [A trustee shall make the following
disbursements] Subject to section 469.457, and except as
otherwise provided in subdivision (2) of subsection 3 of
section 469.413, a fiduciary shall disburse from principal:

(1) The [remaining one-half] balance of the disbursements described in [subdivisions (1) and (2)] subsections 1 and 3 of section 469.451, after application of subsection 2 of section 469.451;

(2) [All of] The [trustee's] fiduciary's compensation calculated on principal as a fee for acceptance, distribution, or termination[, and disbursements made to prepare property for sale];

(3) [Payments] A payment of an expense to prepare for or execute a sale or other disposition of property;

(4) A payment on the principal of a trust debt;

[(4) Expenses of a] (5) A payment of an expense of an accounting, judicial or nonjudicial proceeding, or other matter that [concerns] involves primarily [an interest in] principal, including a proceeding to construe the terms of the trust or protect property;

[(5) Premiums paid on a policy of] (6) A payment of a premium for insurance, including title insurance, not described in subdivision (4) of section 469.451 of which the [trust] fiduciary is the owner and beneficiary;

[(6)] (7) A payment of an estate[,] or inheritance [and other transfer taxes] tax or other tax imposed because of the death of a decedent, including penalties, apportioned to the trust; and

[(7) Extraordinary expenses incurred in connection with the management and preservation of trust property;

(8) Expenses for a capital improvement to a principal asset, whether in the form of changes to an existing asset or the construction of a new asset, including special assessments; and

(9) Disbursements] (8) A payment:

(a) Related to environmental matters, including:

a. Reclamation[,];

- b. Assessing environmental conditions [,] ;
 - c. Remedying and removing environmental contamination [,] ;
 - d. Monitoring remedial activities and the release of substances [,] ;
 - e. Preventing future releases of substances [,] ;
 - f. Collecting amounts from persons liable or potentially liable for the costs of [those] activities [,] described in subparagraphs a. to e. of this paragraph;
 - g. Penalties imposed under environmental laws or regulations [and] ;
 - h. Other [payments made] actions to comply with [those] environmental laws or regulations [,] ;
 - i. Statutory or common law claims by third parties [,] ;
- and
- j. Defending claims based on environmental matters [.] ;
- and
- (b) For a premium for insurance for matters described in paragraph (a) of this subdivision.

2. If a principal asset is encumbered with an obligation that requires income from [that] the asset to be paid directly to [the] a creditor, the [trustee] fiduciary shall transfer from principal to income an amount equal to the income paid to the creditor in reduction of the principal balance of the obligation.

469.455. 1. [As used] In this section, [the term] "depreciation" means a reduction in value due to wear, tear, decay, corrosion, or gradual obsolescence of a [fixed] tangible asset having a useful life of more than one year.

2. A [trustee] fiduciary may transfer to principal a reasonable amount of the net cash receipts from a principal asset that is subject to depreciation, but [may] shall not transfer any amount for depreciation:

(1) Of [that portion] the part of real property used or available for use by a beneficiary as a residence [or];

(2) Of tangible personal property held or made available for the personal use or enjoyment of a beneficiary; or

[(2)During the administration of a decedent's estate; or]

(3) [Pursuant to] Under this section [if the trustee is accounting pursuant to section 469.427], to the extent the fiduciary accounts:

(a) Under section 469.439 for the asset; or

(b) Under section 469.427 for the business or other activity in which the asset is used.

3. An amount transferred to principal under this section need not be separately held [as a separate fund].

469.456. 1. If a fiduciary makes or expects to make an income disbursement described in subsection 2 of this section, the fiduciary may transfer an appropriate amount from principal to income in one or more accounting periods to reimburse income.

2. To the extent the fiduciary has not been and does not expect to be reimbursed by a third party, income disbursements to which subsection 1 of this section applies include:

(1) An amount chargeable to principal but paid from income because principal is illiquid;

(2) A disbursement made to prepare property for sale, including improvements and commissions; and

(3) A disbursement described in subsection 1 of section 469.453.

3. If an asset whose ownership gives rise to an income disbursement becomes subject to a successive interest after

an income interest ends, the fiduciary may continue to make transfers under subsection 1 of this section.

469.457. 1. If a [trustee] fiduciary makes or expects to make a principal disbursement described in subsection 2 of this section, the [trustee] fiduciary may transfer an appropriate amount from income to principal in one or more accounting periods to reimburse principal or [to] provide a reserve for future principal disbursements.

2. To the extent a fiduciary has not been and does not expect to be reimbursed by a third party, principal disbursements to which subsection 1 of this section applies include [the following, but only to the extent that the trustee has not been and does not expect to be reimbursed by a third party]:

(1) An amount chargeable to income but paid from principal because [it] income is [unusually large, including extraordinary repairs] not sufficient;

(2) [Disbursements] The cost of an improvement to principal, whether a change to an existing asset or the construction of a new asset, including a special assessment;

(3) A disbursement made to prepare property for rental, including tenant allowances, leasehold improvements, and [broker's] commissions;

[(3)] (4) A periodic [payments] payment on an obligation secured by a principal asset, to the extent [that] the amount transferred from income to principal for depreciation is less than the periodic [payments] payment; and

[(4) Disbursements] (5) A disbursement described in [subdivision (7) of] subsection 1 of section 469.453.

3. If [the] an asset whose ownership gives rise to [the disbursements] a principal disbursement becomes subject to a successive [income] interest after an income interest

ends, [a trustee] the fiduciary may continue to [transfer amounts from income to principal as provided in] make transfers under subsection 1 of this section.

469.459. 1. A tax required to be paid by a [trustee] fiduciary that is based on receipts allocated to income shall be paid from income.

2. A tax required to be paid by a [trustee] fiduciary that is based on receipts allocated to principal shall be paid from principal, even if the tax is called an income tax by the taxing authority.

3. Subject to subsection 4 of this section and sections 469.456, 469.457, and 469.462, a tax required to be paid by a [trustee] fiduciary on [the trust's] a share of an entity's taxable income in an accounting period shall be paid from:

(1) [From] Income and principal proportionately to the [extent that] allocation between income and principal of receipts from the entity [are allocated to income] in the period; and

(2) [From] Principal to the extent [that] the tax exceeds the receipts from the entity [are allocated only to principal] in the period.

4. After applying subsections 1 to 3 of this section, [the trustee] a fiduciary shall adjust income or principal receipts, to the extent [that] the [trust's] taxes the fiduciary pays are reduced because [the trust receives] of a deduction for a payment made to a beneficiary.

469.462. 1. A fiduciary may make an adjustment between income and principal to offset the shifting of economic interests or tax benefits between current income beneficiaries and successor beneficiaries that arises from:

(1) An election or decision the fiduciary makes regarding a tax matter, other than a decision to claim an

income tax deduction to which subsection 2 of this section applies;

(2) An income tax or other tax imposed on the fiduciary or a beneficiary as a result of a transaction involving the fiduciary or a distribution by the fiduciary;
or

(3) Ownership by the fiduciary of an interest in an entity, a part of whose taxable income, whether or not distributed, is includable in the taxable income of the fiduciary or a beneficiary.

2. If the amount of an estate tax marital or charitable deduction is reduced because a fiduciary deducts an amount paid from principal for income tax purposes instead of deducting it for estate tax purposes and, as a result, estate taxes paid from principal are increased and income taxes paid by the fiduciary or a beneficiary are decreased, the fiduciary shall charge each beneficiary that benefits from the decrease in income tax to reimburse the principal from which the increase in estate tax is paid. The total reimbursement shall equal the increase in the estate tax, to the extent the principal used to pay the increase would have qualified for a marital or charitable deduction but for the payment. The share of the reimbursement for each fiduciary or beneficiary whose income taxes are reduced shall be the same as its share of the total decrease in income tax.

3. A fiduciary that charges a beneficiary under subsection 2 of this section may offset the charge by obtaining payment from the beneficiary, withholding an amount from future distributions to the beneficiary, or adopting another method or combination of methods.

469.463. In applying and construing sections [469.401] 469.399 to [469.467] 469.487, consideration shall be given

to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

469.464. The provisions of sections 469.399 to 469.487 modify, limit, or supersede the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but do not modify, limit, or supersede 15 U.S.C. Section 7001(c) or authorize electronic delivery of any of the notices described in 15 U.S.C. Section 7003(b).

469.465. If any provision of sections [469.401] 469.399 to [469.467] 469.487 or [the] its application [of these sections] to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of sections [469.401] 469.399 to [469.467] 469.487 which can be given effect without the invalid provision or application and to this end, the provisions of sections 469.399 to 469.487 are severable.

469.467. The provisions of sections [469.401] 469.399 to [469.467] 469.487 apply to [every] a trust or [decedent's] estate existing or created on or after August 28, [2001] 2024, except as otherwise expressly provided in the [will or] terms of the trust or [in] sections [469.401] 469.399 to [469.467] 469.487.

469.471. As used in sections 469.471 to 469.487, the following terms mean:

(1) "Applicable value", the amount of the net fair market value of a trust taken into account under section 469.483;

(2) "Express unitrust", a trust for which, under the terms of the trust without regard to sections 469.471 to 469.487, income or net income shall or may be calculated as a unitrust amount;

(3) "Income trust", a trust that is not a unitrust;

(4) "Net fair market value of a trust", the fair market value of the assets of the trust, less the noncontingent liabilities of the trust;

(5) "Unitrust", a trust for which net income is a unitrust amount. The term "unitrust" includes an express unitrust;

(6) "Unitrust amount", an amount computed by multiplying a determined value of a trust by a determined percentage. For a unitrust administered under a unitrust policy, the term "unitrust amount" means the applicable value multiplied by the unitrust rate;

(7) "Unitrust policy", a policy described in sections 469.479 to 469.487 and adopted under section 469.475;

(8) "Unitrust rate", the rate used to compute the unitrust amount for a unitrust administered under a unitrust policy.

469.473. 1. Except as otherwise provided in subsection 2 of this section, sections 469.471 to 469.487 apply to:

(1) An income trust, unless the terms of the trust expressly prohibit use of sections 469.471 to 469.487 by a specific reference to these sections or an explicit expression of intent that net income not be calculated as a unitrust amount; and

(2) An express unitrust, except to the extent the terms of the trust explicitly:

(a) Prohibit use of sections 469.471 to 469.487 by a specific reference to such sections;

(b) Prohibit conversion to an income trust; or

(c) Limit changes to the method of calculating the unitrust amount.

2. Sections 469.471 to 469.487 do not apply to a trust described in 26 U.S.C. Section 170(f)(2)(B), 642(c)(5), 664(d), 2702(a)(3)(A)(ii) or (iii), or 2702(b), as amended.

3. An income trust to which sections 469.471 to 469.487 apply under subdivision (1) of subsection 1 of this section may be converted to a unitrust under sections 469.471 to 469.487 regardless of the terms of the trust concerning distributions. Conversion to a unitrust under sections 469.471 to 469.487 does not affect other terms of the trust concerning distributions of income or principal.

4. Sections 469.471 to 469.487 apply to an estate only to the extent a trust is a beneficiary of the estate. To the extent of the trust's interest in the estate, the estate may be administered as a unitrust, the administration of the estate as a unitrust may be discontinued, or the percentage or method used to calculate the unitrust amount may be changed, in the same manner as for a trust under sections 469.471 to 469.487.

5. Sections 469.471 to 469.487 do not create a duty to take or consider action under sections 469.471 to 469.487 or to inform a beneficiary about the applicability of sections 469.471 to 469.487.

6. A fiduciary that in good faith takes or fails to take an action under sections 469.471 to 469.487 is not liable to a person affected by the action or inaction.

469.475. 1. A fiduciary, without court approval, by complying with subsections 2 and 6 of this section, may:

(1) Convert an income trust to a unitrust if the fiduciary adopts in a record a unitrust policy for the trust providing:

(a) That in administering the trust the net income of the trust will be a unitrust amount rather than net income determined without regard to sections 469.471 to 469.487; and

(b) The percentage and method used to calculate the unitrust amount;

(2) Change the percentage or method used to calculate a unitrust amount for a unitrust if the fiduciary adopts in a record a unitrust policy or an amendment or replacement of a unitrust policy providing changes in the percentage or method used to calculate the unitrust amount; or

(3) Convert a unitrust to an income trust if the fiduciary adopts in a record a determination that, in administering the trust, the net income of the trust will be net income determined without regard to sections 469.471 to 469.487 rather than a unitrust amount.

2. A fiduciary may take an action under subsection 1 of this section if:

(1) The fiduciary determines that the action will assist the fiduciary to administer a trust impartially;

(2) The fiduciary sends a notice in a record, in the manner required by section 469.477, describing and proposing to take the action;

(3) The fiduciary sends a copy of the notice under subdivision (2) of this subsection to each settlor of the trust that is:

(a) If an individual, living; or

(b) If not an individual, in existence;

(4) At least one member of each class of the qualified beneficiaries described under section 456.1-103 receiving the notice under subdivision (2) of this subsection is:

(a) If an individual, legally competent;

(b) If not an individual, in existence; or

(c) Represented in the manner provided in subsection 2 of section 469.477; and

(5) The fiduciary does not receive, by the date specified in the notice under subdivision (5) of subsection

4 of section 469.477, an objection in a record to the action proposed under subdivision (2) of this subsection from a person to which the notice under subdivision (2) of this subsection is sent.

3. If a fiduciary receives, not later than the date stated in the notice under subdivision (5) of subsection 4 of section 469.477, an objection in a record described in subdivision (4) of subsection 4 of section 469.477 to a proposed action, the fiduciary or a beneficiary may request the court to have the proposed action taken as proposed, taken with modifications, or prevented. A person described in subsection 1 of section 469.477 may oppose the proposed action in the proceeding under this subsection, whether or not the person:

(1) Consented under subsection 3 of section 469.477; or

(2) Objected under subdivision (4) of subsection 4 of section 469.477.

4. If, after sending a notice under subdivision (2) of subsection 2 of this section, a fiduciary decides not to take the action proposed in the notice, the fiduciary shall notify in a record each person described in subsection 1 of section 469.477 of the decision not to take the action and the reasons for the decision.

5. If a beneficiary requests in a record that a fiduciary take an action described in subsection 1 of this section and the fiduciary declines to act or does not act within ninety days after receiving the request, the beneficiary may request the court to direct the fiduciary to take the action requested.

6. In deciding whether and how to take an action authorized by subsection 1 of this section, or whether and how to respond to a request by a beneficiary under subsection 5 of this section, a fiduciary shall consider all

factors relevant to the trust and the beneficiaries,
including relevant factors in subsection 5 of section
469.403.

7. A fiduciary may release or delegate the power to
convert an income trust to a unitrust under subdivision (1)
of subsection 1 of this section, change the percentage or
method used to calculate a unitrust amount under subdivision
(2) of subsection 1 of this section, or convert a unitrust
to an income trust under subdivision (3) of subsection 1 of
this section, for a reason described in subsection 7 of
section 469.405 and in the manner described in subsection 8
of section 469.405.

469.477. 1. A notice required by subdivision (3) of
subsection 2 of section 469.475 shall be sent in a manner
authorized under section 456.1-109 to:

(1) The qualified beneficiaries defined under section
456.1-103;

(2) Each person acting as trust protector under
section 456.8-808; and

(3) Each person that is granted a power over the trust
by the terms of the trust, to the extent the power is
exercisable when the person is not then serving as a trustee:

(a) Including a:

a. Power over the investment, management, or
distribution of trust property or other matters of trust
administration; and

b. Power to appoint or remove a trustee or person
described in this paragraph; and

(b) Excluding a:

a. Power of appointment;

b. Power of a beneficiary over the trust, to the
extent the exercise or nonexercise of the power affects the
beneficial interest of the beneficiary or another

beneficiary represented by the beneficiary under sections 456.3-301 to 456.3-305 with respect to the exercise or nonexercise of the power; and

c. Power over the trust if the terms of the trust provide that the power is held in a nonfiduciary capacity and the power shall be held in a nonfiduciary capacity to achieve a tax objective under 26 U.S.C., as amended.

2. The representation provisions of sections 456.3-301 to 456.3-305 apply to notice under this section.

3. A person may consent in a record at any time to action proposed under subdivision (2) of subsection 2 of section 469.475. A notice required by subdivision (2) of subsection 2 of section 469.475 need not be sent to a person that consents under this subsection.

4. A notice required by subdivision (2) of subsection 2 of section 469.475 shall include:

(1) The action proposed under subdivision (2) of subsection 2 of section 469.475;

(2) For a conversion of an income trust to a unitrust, a copy of the unitrust policy adopted under subdivision (1) of subsection 1 of section 469.475;

(3) For a change in the percentage or method used to calculate the unitrust amount, a copy of the unitrust policy or amendment or replacement of the unitrust policy adopted under subdivision (2) of subsection 1 of section 469.475;

(4) A statement that the person to which the notice is sent may object to the proposed action by stating in a record the basis for the objection and sending or delivering the record to the fiduciary;

(5) The date by which an objection under subdivision (4) shall be received by the fiduciary, which shall be at least thirty days after the date the notice is sent;

(6) The date on which the action is proposed to be taken and the date on which the action is proposed to take effect;

(7) The name and contact information of the fiduciary;
and

(8) The name and contact information of a person that may be contacted for additional information.

469.479. 1. In administering a unitrust under sections 469.471 to 469.487, a fiduciary shall follow a unitrust policy adopted under subdivision (1) or (2) of subsection 1 of section 469.475 or amended or replaced under subdivision (2) of section 1 of section 469.475.

2. A unitrust policy shall provide:

(1) The unitrust rate or the method for determining the unitrust rate under section 469.481;

(2) The method for determining the applicable value under section 469.483; and

(3) The rules described in sections 469.481 to 469.487 that apply in the administration of the unitrust, whether the rules are:

(a) Mandatory, as provided in subsection 1 of section 469.483 and subsection 1 of section 469.485; or

(b) Optional, as provided in section 469.481, subsection 2 of section 469.483, subsection 2 of section 469.485, and subsection 1 of section 469.487, to the extent the fiduciary elects to adopt such rules.

469.481. 1. Except as otherwise provided in subdivision (1) of subsection 2 of section 469.487, a unitrust rate may be:

(1) A fixed unitrust rate; or

(2) A unitrust rate that is determined for each period using:

(a) A market index or other published data; or

(b) A mathematical blend of market indices or other published data over a stated number of preceding periods.

2. Except as otherwise provided in subdivision (1) of subsection 2 of section 469.487, a unitrust policy may provide:

(1) A limit on how high the unitrust rate determined under subdivision (2) of subsection 1 of this section may rise;

(2) A limit on how low the unitrust rate determined under subdivision (2) of subsection 1 of this section may fall;

(3) A limit on how much the unitrust rate determined under subdivision (2) of subsection 1 of this section may increase over the unitrust rate for the preceding period or a mathematical blend of unitrust rates over a stated number of preceding periods;

(4) A limit on how much the unitrust rate determined under subdivision (2) of subsection 1 of this section may decrease below the unitrust rate for the preceding period or a mathematical blend of unitrust rates over a stated number of preceding periods; or

(5) A mathematical blend of any of the unitrust rates determined under subdivision (2) of subsection 1 of this section and subdivisions (1) to (4) of this subsection.

469.483. 1. A unitrust policy shall provide the method for determining the fair market value of an asset for the purpose of determining the unitrust amount, including:

(1) The frequency of valuing the asset, which need not require a valuation in every period; and

(2) The date for valuing the asset in each period in which the asset is valued.

2. Except as otherwise provided in subdivision (2) of subsection 2 of section 469.487, a unitrust policy may

provide methods for determining the amount of the net fair market value of the trust to take into account in determining the applicable value, including:

(1) Obtaining an appraisal of an asset for which fair market value is not readily available;

(2) Exclusion of specific assets or groups or types of assets;

(3) Other exceptions or modifications of the treatment of specific assets or groups or types of assets;

(4) Identification and treatment of cash or property held for distribution;

(5) Use of:

(a) An average of fair market values over a stated number of preceding periods; or

(b) Another mathematical blend of fair market values over a stated number of preceding periods;

(6) A limit on how much the applicable value of all assets, groups of assets, or individual assets may increase over:

(a) The corresponding applicable value for the preceding period; or

(b) A mathematical blend of applicable values over a stated number of preceding periods;

(7) A limit on how much the applicable value of all assets, groups of assets, or individual assets may decrease below:

(a) The corresponding applicable value for the preceding period; or

(b) A mathematical blend of applicable values over a stated number of preceding periods;

(8) The treatment of accrued income and other features of an asset that affect value; and

(9) Determining the liabilities of the trust, including treatment of liabilities to conform with the treatment of assets under subdivisions (1) to (8) of this subsection.

469.485. 1. A unitrust policy shall provide the period used under sections 469.481 and 469.483. Except as otherwise provided in subdivision (3) of subsection 2 of section 469.481, the period may be:

(1) A calendar year;

(2) A twelve-month period other than a calendar year;

(3) A calendar quarter;

(4) A three-month period other than a calendar quarter; or

(5) Another period.

2. Except as otherwise provided in subsection 2 of section 469.487, a unitrust policy may provide standards for:

(1) Using fewer preceding periods under paragraph (b) of subdivision (2) of subsection 1 of section 469.481 or subdivision (3) or (4) of subsection 2 of section 469.481 if:

(a) The trust was not in existence in a preceding period; or

(b) Market indices or other published data are not available for a preceding period;

(2) Using fewer preceding periods under paragraph (a) or (b) of subdivision (5) of subsection 2 of section 469.483, paragraph (b) of subdivision (6) of subsection 2 of section 469.483, or paragraph (b) of subdivision (7) of subsection 2 of section 469.483 if:

(a) The trust was not in existence in a preceding period; or

(b) Fair market values are not available for a preceding period; and

(3) Prorating the unitrust amount on a daily basis for a part of a period in which the trust or the administration of the trust as a unitrust or the interest of any beneficiary commences or terminates.

469.487. 1. A unitrust policy may:

(1) Provide methods and standards for:

(a) Determining the timing of distributions;

(b) Making distributions in cash or in kind or partly in cash and partly in kind; or

(c) Correcting an underpayment or overpayment to a beneficiary based on the unitrust amount if there is an error in calculating the unitrust amount;

(2) Specify sources and the order of sources, including categories of income for federal income tax purposes, from which distributions of a unitrust amount are paid; or

(3) Provide other standards and rules the fiduciary determines serve the interests of the beneficiaries.

2. If a trust qualifies for a special tax benefit or a fiduciary is not an independent person:

(1) The unitrust rate established under section 469.481 shall not be less than three percent or more than five percent;

(2) The only provisions of section 469.483 that apply are subsection 1 of section 469.483; subdivisions (1), (4), and (9) of subsection 2 of section 469.483; and paragraph (a) of subdivision (5) of subsection 2 of section 469.483;

(3) The only period that may be used under section 469.485 is a calendar year under subdivision (1) of subsection 1 of section 469.485; and

(4) The only other provisions of section 469.485 that apply are paragraph (a) of subdivision (2) of subsection 2

of section 469.485 and subdivision (3) of subsection 2 of section 469.485.

474.540. The provisions of sections 474.540 to 474.564 shall be known and may be cited as the "Missouri Electronic Wills and Electronic Estate Planning Documents Act".

474.542. As used in sections 474.540 to 474.564, the following terms mean:

(1) "Electronic", technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

(2) "Electronic presence", the relationship of two or more individuals in different locations in real time using technology enabling live, interactive audio-visual communication that allows for observation, direct interaction, and communication between or among the individuals;

(3) "Electronic will", a will executed electronically in compliance with subsection 1 of section 474.548;

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

(5) "Security procedure", a procedure to verify that an electronic signature, record, or performance is that of a specific person or to detect a change or error in an electronic record, including a procedure that uses an algorithm, code, identifying word or number, encryption, or callback or other acknowledgment procedure;

(6) "Sign", with present intent to authenticate or adopt a record to:

(a) Execute or adopt a tangible symbol; or

(b) Affix to or logically associate with the record an electronic symbol or process;

(7) "State", a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States;

(8) "Will", a codicil and any testamentary instrument that appoints an executor, revokes or revises another will, nominates a guardian, or expressly excludes or limits the right of an individual or class to succeed to property of the decedent passing by intestate succession.

474.544. An electronic will shall be a will for all purposes of the laws of this state. The provisions of law of this state applicable to wills and principles of equity shall apply to an electronic will, except as modified by sections 474.540 to 474.564.

474.546. A will executed electronically but not in compliance with subsection 1 of section 474.548 shall be an electronic will under the provisions of sections 474.540 to 474.564 if executed in compliance with the law of the jurisdiction where the testator is:

- (1) Physically located when the will is signed; or
- (2) Domiciled, or where the testator resides, when the will is signed or when the testator dies.

474.548. 1. An electronic will shall be:

(1) A record that is readable as text at the time of signing as provided in subdivision (2) of this subsection and remains accessible as text for later reference;

(2) Signed by:

(a) The testator; or

(b) Another individual in the testator's name, in the testator's physical presence, and by the testator's direction; and

(3) Signed in the physical or electronic presence of the testator by at least two individuals after witnessing:

(a) The signing of the will pursuant to subdivision (2) of this subsection; or

(b) The testator's acknowledgment of the signing of the will pursuant to subdivision (2) of this subsection or acknowledgment of the will.

2. The intent of a testator that the record in subdivision (1) of subsection 1 of this section be the testator's electronic will may be established by extrinsic evidence.

3. In accordance with the provisions of sections 474.337 or 474.550, a witness to a will shall be a resident of a state and physically located in a state at the time of signing if no self-proving affidavit is signed contemporaneously with the execution of the electronic will.

474.550. At the time of its execution or at any subsequent date, an electronic will may be made self-proved in the same manner as specified in section 474.337 or, if fewer than two witnesses are physically present in the same location as the testator at the time of such acknowledgments, before a remote online notary authorized to perform a remote online notarization in this state under the law of any state or the United States, and evidenced by a remote online notarial certificate, in form and content substantially as follows, subject to the additional requirements under section 486.1165:

State of _____

County (and/or City) of _____

I, the undersigned notary, certify that _____, the testator, and the witnesses, whose names are signed to the attached or foregoing instrument, having personally appeared before me by remote online means, and having been first duly sworn,

each then declared to me that the testator signed and executed the instrument as the testator's last will, and that the testator had willingly signed or willingly directed another to sign for the testator, and that the testator executed it as the testator's free and voluntary act for the purposes therein expressed; and that each of the witnesses, in the presence and hearing of the testator, signed the will as witness and that to the best of the witnesses' knowledge the testator was at that time eighteen or more years of age, of sound mind, and under no constraint or undue influence.

In witness thereof I have hereunto subscribed my name and affixed my official seal this
(date).

(official signature and seal
of notary)

474.552. 1. An electronic will may revoke all or part of a previous will.

2. All or part of an electronic will shall be revoked by:

(1) A subsequent will that revokes all or part of the electronic will expressly or by inconsistency;

(2) A written instrument signed by the testator declaring the revocation; or

(3) A physical act, if it is established by a preponderance of the evidence that the testator, with the intent of revoking all or part of the will, performed the act or directed another individual who performed the act in the testator's physical presence.

3. If there is evidence that a testator signed an electronic will and neither the electronic will nor a certified paper copy of the electronic will can be located after a testator's death, there shall be a presumption that the testator revoked the electronic will even if no

instrument or later will revoking the electronic will can be located.

474.554. Without further notice, at any time during the administration of the estate or, if there is no grant of administration, upon such notice and in such manner as the court directs, the court may issue an order pursuant to sections 472.400 to 472.490 for a custodian of an account held under a terms-of-service agreement to disclose digital assets for the purposes of obtaining an electronic will from the account of a deceased user. If there is no grant of administration at the time the court issues the order, the court's order shall grant disclosure to the petitioner who is deemed a personal representative under sections 472.400 to 472.490.

474.556. 1. An individual may create a certified paper copy of an electronic will by affirming under penalty of perjury that a paper copy of the electronic will is a complete, true, and accurate copy of the electronic will. If the electronic will is made self-proving, the certified paper copy of the will shall include a self-proving affidavit as provided in sections 474.337 or 474.550.

2. If a provision of law or rule of procedure requires a will to be presented or retained in its original form or provides consequences for the information not being presented or retained in its original form, that provision or rule shall be satisfied by a certified paper copy of an electronic will.

474.558. In applying and construing the provisions of sections 474.540 to 474.564, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact similar provisions.

474.560. 1. Any written estate planning document may be executed electronically, and no such estate planning document shall be invalid or void solely because it is in electronic form or because it is signed electronically by a settlor, trustee, principal, grantor, declarant, or owner, or by a witness to any such person's signature. For purposes of this section, "estate planning document" shall include, but not be limited to:

- (1) A power of attorney or durable power of attorney;
- (2) A health care declaration;
- (3) An advance directive;
- (4) A power of attorney for health care or durable power of attorney for health care;
- (5) A revocable trust or amendment thereto, or modification or revocation thereof;
- (6) An irrevocable trust;
- (7) A beneficiary deed;
- (8) A nonprobate transfer; or
- (9) A document modifying, amending, correcting, or revoking any written estate planning document.

2. (1) An electronic estate planning document or an electronic signature on such document shall be attributable to a person if it was the act of the person. The act of the person may be shown in any manner, including a showing of the efficacy of a security procedure applied to determine the person to which the electronic record or signature was attributable.

(2) The effect of attribution of a document or signature to a person pursuant to subdivision (1) of this subsection shall be determined from the context and surrounding circumstances at the time of its creation, execution, or adoption and as provided by other provisions of law.

3. (1) Unless otherwise provided under its terms, any electronic estate planning document may be signed in one or more counterparts, and each separate counterpart may be an electronic document or a paper document, provided that all signed counterpart pages of each document are incorporated into, or attached to, the document.

(2) An individual may create a certified paper copy of any such electronic estate planning document by affirming under penalty of perjury that a paper copy of the electronic estate planning document is a complete, true, and accurate copy of such document. If a provision of law or a rule of procedure requires an estate planning document to be presented or retained in its original form or provides consequences for the information not being presented or retained in its original form, such provision or rule shall be satisfied by a certified paper copy of an electronic document.

4. Any written estate planning document, other than a will, that requires one or more witnesses to the signature of a principal may be witnessed by any individual or individuals in the electronic presence of the principal.

5. A person who acts in reliance upon an electronically executed written estate planning document shall not be liable to any person for so relying and may assume without inquiry the valid execution of the electronically executed written estate planning document.

6. This section does not require a written estate planning document to be electronically signed.

7. The laws of this state and principles of equity applicable to any estate planning document shall apply to any electronic estate planning document except as modified by this section.

474.562. The provisions of sections 474.540 to 474.564 modify, limit, and supersede the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but do not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

474.564. The provisions of sections 474.540 to 474.564 shall apply to any will of a decedent who dies on or after August 28, 2024, and to any other written estate planning document, as the term "estate planning document" is defined in section 474.560, signed or remotely witnessed on or after August 28, 2024.

474.600. 1. As used in this section, the following terms mean:

(1) "Applicable state of emergency", the period between April 6, 2020, and December 31, 2021, during which a state of emergency existed due to a COVID-19 public health threat, as proclaimed by the governor, and during which executive orders 20-08, 20-10, 20-12, 20-14, 20-19, 21-07, and 21-09 temporarily suspended the physical appearance requirements in this chapter and authorized the use of audio-visual technology to the extent that any Missouri statute required the physical presence of any testator, settlor, principal, witness, notary, or other person necessary for the effective execution of any estate planning document such as a will, trust, or power of attorney, or a self-proving affidavit of the execution of such document, if the conditions set forth in the executive orders were met;

(2) "Estate planning document", includes, but is not limited to:

(a) A will;

- (b) A codicil;
 - (c) A power of attorney or durable power of attorney;
 - (d) A health care declaration;
 - (e) An advance directive;
 - (f) A power of attorney for health care or a durable power of attorney for health care;
 - (g) A revocable trust or amendment thereto, or modification or revocation thereof;
 - (h) An irrevocable trust;
 - (i) A beneficiary deed;
 - (j) A nonprobate transfer; or
 - (k) A document modifying, amending, correcting, or revoking any written estate planning document;
 - (3) "Necessary person", any testator, settlor, grantor, principal, declarant, witness, notary, or other person required for the effective execution of any estate planning document in this state;
 - (4) "Physical presence requirement", includes, but is not limited to, any requirement of physical presence under section 404.705, 459.015, 474.320, or 474.337 or chapter 486.
2. With respect to the execution of an estate planning document, a necessary person shall be deemed to have satisfied any physical presence requirement under Missouri law during the applicable state of emergency if the following requirements were met:
- (1) The signer affirmatively represented that the signer was physically situated in the state of Missouri;
 - (2) The notary was physically located in the state of Missouri and stated in which county the notary was physically located for the jurisdiction on the acknowledgment;
 - (3) The notary identified the signers to the satisfaction of the notary and Missouri law;

(4) Any person whose signature was required appeared using video conference software where live, interactive audio-visual communication between the principal, notary, and any other necessary person allowed for observation, direct interaction, and communication at the time of signing; and

(5) The notary recorded in the notary's journal the exact time and means used to perform the notarial act, along with all other required information, absent the wet signatures.

3. The requirements of subdivisions (1) to (5) of subsection 2 of this section shall be deemed satisfied if an attorney who is licensed or authorized to practice law in Missouri and who was present at the remote execution signs a written acknowledgment made before an officer authorized to administer oaths under the laws of this state, and evidenced by the officer's certificate, under official seal, affixed to or logically associated with the acknowledgment. The form and content of the acknowledgment shall be substantially as follows:

State of _____

County of _____

AFFIDAVIT OF REMOTE EXECUTION OF DOCUMENTS

I, _____, am an attorney licensed or authorized to practice law in the state of Missouri.

On _____ (date), I convened with the following individuals via video conference software that allowed for live, interactive audio-visual communication between the parties to the conference and that also allowed for observation, direction, interaction, and communication between:

_____, the (testator, settlor, grantor, principal, or declarant);

attaining the age of eighteen. Such affidavit shall state that:

(1) The affiant is the parent, physical custodian, or guardian of the minor;

(2) A treating doctor has certified by letter, report, or affidavit that the minor has a diagnosed developmental disability or intellectual disability as defined in section 630.005, and the letter, report, or affidavit is attached to the affidavit. This shall not include a mental disorder or mental illness as defined in section 630.005;

(3) The minor has not yet attained the age of eighteen;

(4) No petition for adult guardianship or conservatorship, filed pursuant to section 475.060, has been filed in the court in which the affidavit is filed or in any other court having jurisdiction over the minor; and

(5) The affiant is not aware of an objection by an interested person to the appointment of the parent, physical custodian, guardian, or some other qualified person as guardian of the minor upon the minor attaining the age of eighteen.

2. If the court finds the affidavit fails to meet one or more of the criteria set forth in subsection 1 of this section, or if good cause is shown by the attorney for the minor or ward, the court may enter an order appointing an attorney to represent the affiant.

3. (1) A clerk of a court shall make available to the petitioner the affidavit and other uniform forms adopted by the Missouri supreme court for a proceeding under this section.

(2) Except as otherwise provided by law, a clerk under the supervision of a circuit clerk shall explain to a petitioner who is not represented by counsel the procedures for filing all forms and pleadings necessary for the

presentation of the petitioner's petition under this section. The performance of duties prescribed in this section shall not constitute the practice of law as defined in section 484.010.

(3) All duties of the clerk prescribed in this section shall be performed without cost to the petitioner. The supreme court of Missouri may promulgate rules as necessary to govern conduct of a court clerk under this chapter and provide forms for petitions and written instructions on completing all forms and pleadings necessary for the presentation of the petition to the court.

4. The court shall accept and act upon a petition filed under this section without requiring a filing fee. Any expenses incurred under this section for attorney's fees for the attorney of the minor or ward may be reimbursed from moneys deposited into a family services and justice fund under section 488.2300.

5. For purposes of this section, "physical custodian" means an adult having continuous physical custody of a minor entering adult guardianship or conservatorship for the six months prior to the filing of an affidavit under subsection 1 of this section.

476.1025. A parent, spouse, child, or personal representative of a person who was convicted of a misdemeanor offense may file a motion with the court in which the person was convicted to have the record of such offense made confidential in any automated case management system if such person has been deceased for six months or more. Upon such motion accompanied by a copy of the death certificate of the deceased person, the court shall make the case confidential. Prior to making the case confidential, the court shall determine whether any person would be

unfairly prejudiced by making such record confidential in any automated case management system.

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

2. Funds in the basic civil legal services fund shall be allocated annually and expended to provide legal representation to eligible low-income persons in the state in civil matters. Moneys, funds, or payments paid to the credit of the basic civil legal services fund shall, at least as often as annually, be distributed to the legal services organizations in this state which qualify for Federal Legal Services Corporation funding. The funds so distributed shall be used by legal services organizations in this state solely to provide legal services to eligible low-income persons as such persons are defined by the Federal Legal Services Corporation's Income Eligibility Guidelines. Fund money shall be subject to all restrictions imposed on such legal services organizations by law. Funds shall be allocated to the programs according to the funding formula employed by the Federal Legal Services Corporation for the distribution of funds to this state. Notwithstanding the provisions of section 33.080, any balance remaining in the basic civil legal services fund at the end of any year shall

not be transferred to the state's general revenue fund. Moneys in the basic civil legal services fund shall not be used to pay any portion of a refund mandated by Article X, Section ~~[15]~~ 18 of the Missouri Constitution. State legal services programs shall represent individuals to secure lawful state benefits, but shall not sue the state, its agencies, or its officials, with any state funds.

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

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

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

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

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

478.001. 1. For purposes of sections 478.001 to 478.009, the following terms shall mean:

(1) "Adult treatment court", a treatment court focused on addressing the substance use disorder or co-occurring disorder of defendants charged with a criminal offense;

(2) "Community-based substance use disorder treatment program", an agency certified by the department of mental health as a substance use disorder treatment provider;

(3) "Co-occurring disorder", the coexistence of both a substance use disorder and a mental health disorder;

(4) "DWI court", a treatment court focused on addressing the substance use disorder or co-occurring disorder of defendants who have pleaded guilty to or been found guilty of driving while intoxicated or driving with excessive blood alcohol content;

(5) "Family treatment court", a treatment court focused on addressing a substance use disorder or co-occurring disorder existing in families in the juvenile court, family court, or criminal court in which a parent or other household member has been determined to have a substance use disorder or co-occurring disorder that impacts the safety and well-being of the children in the family;

(6) "Juvenile treatment court", a treatment court focused on addressing the substance use disorder or co-occurring disorder of juveniles in the juvenile court;

(7) "Medication-assisted treatment", the use of pharmacological medications, in combination with counseling and behavioral therapies, to provide a whole-patient approach to the treatment of substance use disorders;

(8) "Mental health court", a treatment court focused on addressing the mental health disorder or co-occurring disorder of defendants charged with a criminal offense;

(9) "Mental health disorder", any organic, mental, or emotional impairment that has substantial adverse effects on a person's cognitive, volitional, or emotional function and that constitutes a substantial impairment in a person's ability to participate in activities of normal living;

[(9)] (10) "Risk and needs assessment", an actuarial tool, approved by the treatment courts coordinating commission and validated on a targeted population of drug-involved adult offenders, scientifically proven to determine a person's risk to recidivate and to identify criminal risk factors that, when properly addressed, can reduce that person's likelihood of committing future criminal behavior;

[(10)] (11) "Substance use disorder", the recurrent use of alcohol or drugs that causes clinically significant impairment, including health problems, disability, and failure to meet major responsibilities at work, school, or home;

[(11)] (12) "Treatment court commissioner", a person appointed by a majority of the circuit and associate circuit judges in a circuit to preside as the judicial officer in the treatment court division;

[(12)] (13) "Treatment court division", a specialized, nonadversarial court division with jurisdiction over cases involving substance-involved offenders and making extensive use of comprehensive supervision, drug or alcohol testing, and treatment services. Treatment court divisions include,

but are not limited to, the following specialized courts: adult treatment court, DWI court, family treatment court, juvenile treatment court, mental health court, veterans treatment court, or any combination thereof;

[(13)] (14) "Treatment court team", the following members who are assigned to the treatment court: the judge or treatment court commissioner, treatment court administrator or coordinator, prosecutor, public defender or member of the criminal defense bar, a representative from the division of probation and parole, a representative from law enforcement, substance use disorder or mental health disorder treatment providers, and any other person selected by the treatment court team;

[(14)] (15) "Veterans treatment court", a treatment court focused on substance use disorders, co-occurring disorders, or mental health disorders of defendants charged with a criminal offense who are military veterans or current military personnel.

2. A treatment court division shall be established, prior to August 28, 2021, by any circuit court pursuant to sections 478.001 to 478.009 to provide an alternative for the judicial system to dispose of cases which stem from, or are otherwise impacted by, a substance use disorder or mental health disorder. The treatment court division may include, but not be limited to, cases assigned to an adult treatment court, DWI court, family treatment court, juvenile treatment court, mental health court, veterans treatment court, or any combination thereof. A treatment court shall combine judicial supervision, drug or alcohol testing, and treatment of participants. Except for good cause found by the court, a treatment court making a referral for substance use disorder or mental health disorder treatment, when such program will receive state or federal funds in connection

with such referral, shall refer the person only to a program which is certified by the department of mental health, unless no appropriate certified treatment program is located within the same county as the treatment court. Upon successful completion of the treatment court program, the charges, petition, or penalty against a treatment court participant may be dismissed, reduced, or modified, unless otherwise stated. Any fees received by a court from a defendant as payment for substance or mental health treatment programs shall not be considered court costs, charges or fines.

3. An adult treatment court may be established by any circuit court [under sections 478.001 to 478.009] to provide an alternative for the judicial system to dispose of cases which stem from substance use.

4. [Under sections 478.001 to 478.009,] A DWI court may be established by any circuit court to provide an alternative for the judicial system to dispose of cases that stem from driving while intoxicated.

5. A family treatment court may be established by any circuit court. The juvenile division of the circuit court or the family court, if one is established under section 487.010, may refer one or more parents or other household members subject to its jurisdiction to the family treatment court if he or she has been determined to have a substance use disorder or co-occurring disorder that impacts the safety and well-being of the children in the family.

6. A juvenile treatment court may be established by the juvenile division of any circuit court. The juvenile division may refer a juvenile to the juvenile treatment court if the juvenile is determined to have committed acts that violate the criminal laws of the state or ordinances of a municipality or county and a substance use disorder or co-

occurring disorder contributed to the commission of the offense.

7. The general assembly finds and declares that it is the public policy of this state to encourage and provide an alternative method for the disposal of cases for military veterans and current military personnel with substance use disorders, mental health disorders, or co-occurring disorders. In order to effectuate this public policy, a veterans treatment court may be established by any circuit court, or combination of circuit courts upon agreement of the presiding judges of such circuit courts, to provide an alternative for the judicial system to dispose of cases that stem from a substance use disorder, mental health disorder, or co-occurring disorder of military veterans or current military personnel. A veterans treatment court shall combine judicial supervision, drug or alcohol testing, and substance use and mental health disorder treatment to participants who have served or are currently serving the United States Armed Forces, including members of the Reserves or National Guard, with preference given to individuals who have combat service. For the purposes of this section, combat service shall be shown through military service documentation that reflects service in a combat theater, receipt of combat service medals, or receipt of imminent danger or hostile fire pay or tax benefits. Except for good cause found by the court, a veterans treatment court shall make a referral for substance use or mental health disorder treatment, or a combination of substance use and mental health disorder treatment, through the Department of Defense health care, the Veterans Administration, or a community-based substance use disorder treatment program. Community-based programs utilized shall receive state or federal funds in connection with such referral and shall

only refer the individual to a program certified by the department of mental health, unless no appropriate certified treatment program is located within the same circuit as the veterans treatment court.

8. A mental health court may be established by any circuit court to provide an alternative for the judicial system to dispose of cases that stem from a mental health disorder or co-occurring disorder.

487.110. The uniform child custody jurisdiction and enforcement act, as enacted in sections [452.440 to 452.550] 452.700 to 452.930, shall apply to all child custody proceedings, as defined in section 452.705, in the family court.

488.040. [1.] Each grand and petit juror shall[, pursuant to the provisions of section 494.455, receive six dollars per day for every day he or she may actually serve as such and seven cents for every mile he or she may necessarily travel going from his or her place of residence to the courthouse and returning, to be paid from funds of the county or a city not within a county.

2. Provided that a county or a city not within a county authorizes daily compensation payable from county or city funds for jurors who serve in that county pursuant to subsection 3 of this section in the amount of at least six dollars per day in addition to the amount required by subsection 1 of this section, a person shall receive an additional six dollars per day, pursuant to the provisions of section 494.455, to be reimbursed by the state of Missouri so that the total compensation payable shall be at least eighteen dollars, plus mileage as indicated in subsection 1 of this section, for each day that the person actually serves as a petit juror in a particular case; or for each day that a person actually serves as a grand juror

during a term of a grand jury. The state shall reimburse the county for six dollars of the additional juror compensation provided by this subsection.

3. The governing body of each county or a city not within a county may authorize additional daily compensation and mileage allowance for jurors, which additional compensation shall be paid from the funds of the county or a city not within a county. The governing body of each county or a city not within a county may authorize additional daily compensation and mileage allowance for jurors attending a coroner's inquest. Jurors may receive the additional compensation and mileage allowance authorized by this subsection only if the governing body of the county or the city not within a county authorizes the additional compensation. The provisions of this subsection authorizing additional compensation shall terminate upon the issuance of a mandate by the Missouri supreme court which results in the state of Missouri being obligated or required to pay any such additional compensation even if such additional compensation is formally approved or authorized by the governing body of a county or a city not within a county.

4. When each panel of jurors summoned and attending court has completed its service, the board of jury commissioners shall cause to be submitted to the governing body of the county or a city not within a county a statement of fees earned by each juror. Within thirty days of the submission of the statement of fees, the governing body shall cause payment to be made to those jurors summoned the fees earned during their service as jurors] receive daily compensation and mileage allowance in the amount provided by law pursuant to section 494.455.

488.426. 1. The judges of the circuit court, en banc, in any circuit in this state may require any party filing a

civil case in the circuit court, at the time of filing the suit, to deposit with the clerk of the court a surcharge in addition to all other deposits required by law or court rule. Sections 488.426 to 488.432 shall not apply to proceedings when costs are waived or are to be paid by the county or state or any city.

2. The surcharge in effect on August 28, 2001, shall remain in effect until changed by the circuit court. The circuit court in any circuit, except the circuit court in Jackson County, the circuit court in the city of St. Louis, or the circuit court in any circuit that reimburses the state for the salaries of family court commissioners under and pursuant to section 487.020, may change the fee to any amount not to exceed fifteen dollars. The circuit court in Jackson County, the circuit court in the city of St. Louis, or the circuit court in any circuit that reimburses the state for the salaries of family court commissioners under and pursuant to section 487.020 may change the fee to any amount not to exceed twenty dollars. A change in the fee shall become effective and remain in effect until further changed.

3. Sections 488.426 to 488.432 shall not apply to proceedings when costs are waived or are paid by the county or state or any city.

[4. In addition to any fee authorized by subsection 1 of this section, any county of the first classification with more than one hundred one thousand but fewer than one hundred fifteen thousand inhabitants may impose an additional fee of ten dollars excluding cases concerning adoption and those in small claims court. The provisions of this subsection shall expire on December 31, 2019.]

488.2300. 1. A "Family Services and Justice Fund" is hereby established in each county or circuit with a family

court, for the purpose of aiding with the operation of the family court divisions and services provided by those divisions. In circuits or counties having a family court, the circuit clerk shall charge and collect a surcharge of thirty dollars in all proceedings falling within the jurisdiction of the family court. The surcharge shall not be charged when no court costs are otherwise required, shall not be charged against the petitioner for actions filed pursuant to the provisions of chapter 455, but may be charged to the respondent in such actions, shall not be charged to a government agency and shall not be charged in any proceeding when costs are waived or are to be paid by the state, county or municipality.

2. In juvenile proceedings under chapter 211, a judgment of up to thirty dollars may be assessed against the child, parent or custodian of the child, in addition to other amounts authorized by law, in informal adjustments made under the provisions of sections 211.081 and 211.083, and in an order of disposition or treatment under the provisions of section 211.181. The judgment may be ordered paid to the clerk of the circuit where the assessment is imposed.

3. All sums collected pursuant to this section and section 487.140 shall be payable to the various county family services and justice funds.

4. Nothing in this section prohibits the general assembly from appropriating moneys into the various county family services and justice funds to be expended for the purposes provided for in this section.

5. Any moneys in the family services and justice fund not expended for salaries of commissioners, family court administrators and family court staff shall be used toward funding the enhanced services provided as a result of the

establishment of a family court; however, it shall not replace or reduce the current and ongoing responsibilities of the counties to provide funding for the courts as required by law. Moneys collected for the family services and justice fund shall be expended for the benefit of litigants and recipients of services in the family court, with priority given to fees incurred under subsection 5 or 7 of section 475.075 or expenses incurred under section 475.063, and to services such as guardians ad litem, mediation, counseling, home studies, psychological evaluation and other forms of alternative dispute-resolution services. Expenditures shall be made at the discretion of the presiding judge or family court administrative judge, as designated by the circuit and associate circuit judges en banc, for the implementation of the family court system as set forth in this section. No moneys from the family services and justice fund may be used to pay for mediation in any cause of action in which domestic violence is alleged.

[5.] 6. From the funds collected pursuant to this section and retained in the family services and justice fund, each circuit or county in which a family court commissioner in addition to those commissioners existing as juvenile court commissioners on August 28, 1993, have been appointed pursuant to sections 487.020 to 487.040 shall pay to and reimburse the state for the actual costs of that portion of the salaries of family court commissioners appointed pursuant to the provisions of sections 487.020 to 487.040.

[6.] 7. No moneys deposited in the family services and justice fund may be expended for capital improvements.

491.075. 1. A statement made by a child under the age of **[fourteen]** eighteen, or a vulnerable person, relating to an offense under chapter 565, 566, 568 or 573, performed by

another, not otherwise admissible by statute or court rule, is admissible in evidence in criminal proceedings in the courts of this state as substantive evidence to prove the truth of the matter asserted if:

(1) The court finds, in a hearing conducted outside the presence of the jury that the time, content and circumstances of the statement provide sufficient indicia of reliability; and

(2) (a) The child or vulnerable person testifies at the proceedings; or

(b) The child or vulnerable person is unavailable as a witness; or

(c) The child or vulnerable person is otherwise physically available as a witness but the court finds that the significant emotional or psychological trauma which would result from testifying in the personal presence of the defendant makes the child or vulnerable person unavailable as a witness at the time of the criminal proceeding.

2. Notwithstanding subsection 1 of this section or any provision of law or rule of evidence requiring corroboration of statements, admissions or confessions of the defendant, and notwithstanding any prohibition of hearsay evidence, a statement by a child when under the age of **[fourteen]** eighteen, or a vulnerable person, who is alleged to be victim of an offense under chapter 565, 566, 568 or 573 is sufficient corroboration of a statement, admission or confession regardless of whether or not the child or vulnerable person is available to testify regarding the offense.

3. A statement may not be admitted under this section unless the prosecuting attorney makes known to the accused or the accused's counsel his or her intention to offer the statement and the particulars of the statement sufficiently

in advance of the proceedings to provide the accused or the accused's counsel with a fair opportunity to prepare to meet the statement.

4. Nothing in this section shall be construed to limit the admissibility of statements, admissions or confessions otherwise admissible by law.

5. For the purposes of this section, "vulnerable person" shall mean a person who, as a result of an inadequately developed or impaired intelligence or a psychiatric disorder that materially affects ability to function, lacks the mental capacity to consent, or whose developmental level does not exceed that of an ordinary child of ~~fourteen~~ seventeen years of age.

492.304. 1. In addition to the admissibility of a statement under the provisions of section 492.303, the visual and aural recording of a verbal or nonverbal statement of a child when under the age of ~~fourteen who is alleged to be a victim of~~ eighteen or a vulnerable person, relating to an offense under the provisions of chapter 565, 566 ~~or~~, 568, or 573, if performed by another, is admissible into evidence if:

(1) No attorney for either party was present when the statement was made; except that, for any statement taken at a state-funded child assessment center as provided for in subsection 2 of section 210.001, an attorney representing the state of Missouri in a criminal investigation may, as a member of a multidisciplinary investigation team, observe the taking of such statement, but such attorney shall not be present in the room where the interview is being conducted;

(2) The recording is both visual and aural and is recorded on film or videotape or by other electronic means;

(3) The recording equipment was capable of making an accurate recording, the operator of the equipment was

competent, and the recording is accurate and has not been altered;

(4) The statement was not made in response to questioning calculated to lead the child or vulnerable person to make a particular statement or to act in a particular way;

(5) Every voice on the recording is identified;

(6) The person conducting the interview of the child or vulnerable person in the recording is present at the proceeding and available to testify or be cross-examined by either party; and

(7) The defendant or the attorney for the defendant is afforded an opportunity to view the recording before it is offered into evidence.

2. If the child or vulnerable person does not testify at the proceeding, the visual and aural recording of a verbal or nonverbal statement of the child or vulnerable person shall not be admissible under this section unless the recording qualifies for admission under section 491.075.

3. If the visual and aural recording of a verbal or nonverbal statement of a child or vulnerable person is admissible under this section and the child or vulnerable person testifies at the proceeding, it shall be admissible in addition to the testimony of the child or vulnerable person at the proceeding whether or not it repeats or duplicates the child's or vulnerable person's testimony.

4. As used in this section, a nonverbal statement shall be defined as any demonstration of the child or vulnerable person by his or her actions, facial expressions, demonstrations with a doll or other visual aid whether or not this demonstration is accompanied by words.

5. For the purposes of this section, "vulnerable person" shall mean a person who, as a result of an

inadequately developed or impaired intelligence or a psychiatric disorder that materially affects the ability to function, lacks the mental capacity to consent, or whose developmental level does not exceed that of an ordinary child of seventeen years of age.

494.455. 1. [Each county or city not within a county may elect to compensate its jurors pursuant to subsection 2 of this section except as otherwise provided in subsection 3 of this section.]

2.] Each grand and petit juror shall receive a minimum of six dollars per day, for every day [he or she] the juror may actually serve as [such] a juror, and [seven cents] the mileage rate as provided by section 33.095 for state employees for every mile [he or she] the juror may necessarily travel going from [his or her] the juror's place of residence to the courthouse and returning, to be paid from funds of the county or a city not within a county. Each county or city not within a county may elect to compensate its jurors pursuant to subsection 2 of this section, except as otherwise provided in subsection 3 of this section.

2. The governing body of each county or a city not within a county may authorize additional daily compensation and mileage allowance for jurors, which additional compensation shall be paid from the funds of the county or a city not within a county. The governing body of each county or a city not within a county may authorize additional daily compensation and mileage allowance for jurors attending a coroner's inquest. Jurors may receive the additional compensation and mileage allowance authorized by this subsection only if the governing body of the county or the city not within a county authorizes the additional compensation. The provisions of this subsection authorizing

additional compensation shall terminate upon the issuance of a mandate by the Missouri supreme court which results in the state of Missouri being obligated or required to pay any such additional compensation even if such additional compensation is formally approved or authorized by the governing body of a county or a city not within a county. Provided that a county or a city not within a county authorizes daily compensation payable from county or city funds for jurors who serve in that county pursuant to this subsection in the amount of at least six dollars per day in addition to the amount required by [this] subsection 1 of this section, a person shall receive an additional six dollars per day to be reimbursed by the state of Missouri so that the total compensation payable shall be at least eighteen dollars, plus mileage for each day that the person actually serves as a petit juror in a particular case; or for each day that a person actually serves as a grand juror during a term of a grand jury. The state shall reimburse the county for six dollars of the additional juror compensation provided by this subsection.

3. [In any county of the first classification without a charter form of government and with a population of at least two hundred thousand inhabitants, no grand or petit juror shall receive compensation for the first two days of service, but shall receive fifty dollars per day for the third day and each subsequent day he or she may actually serve as such, and seven cents for every mile he or she may necessarily travel going from his or her place of residence to the courthouse and returning, to be paid from funds of the county] Notwithstanding the provisions of subsections 1 or 2 of this section to the contrary, by a majority vote, the governing body of a county or a city not within a county may adopt a system for juror compensation in the county or a

city not within a county as follows: each grand or petit juror shall receive fifty dollars per day for the third day the juror may actually serve as a juror and for each subsequent day of actual service, and the mileage rate as provided by section 33.095 for state employees for every mile the juror may necessarily travel from the juror's place of residence to the courthouse and returning, to be paid from funds of the county or a city not within a county; provided that no grand or petit juror shall receive compensation for the first two days the juror may actually serve as such.

4. When each panel of jurors summoned and attending court has completed its service, the board of jury commissioners shall cause to be submitted to the governing body of the county or a city not within a county a statement of fees earned by each juror. Within thirty days of the submission of the statement of fees, the governing body shall cause payment to be made to those jurors summoned the fees earned during their service as jurors.

509.520. 1. Notwithstanding any provision of law to the contrary, beginning August 28, 2023, pleadings, attachments, exhibits filed with the court in any case, as well as any judgments or orders issued by the court, or other records of the court shall not include the following confidential and personal identifying information:

- (1) The full Social Security number of any party or any child;
- (2) The full credit card number, financial institution account number, personal identification number, or password used to secure an account of any party;
- (3) The full motor vehicle operator license number;
- (4) **[Victim] Information[, including the name, address, and other contact information of the] concerning a**

victim or witness in a criminal case that is confidential as otherwise provided by statute or as prescribed in the Missouri supreme court rules of criminal procedure or operating rules;

(5) Witness information, including the name, address, and other contact information of the witness ;

(6) Any other full state identification number;

(7) (6) The name, address, and date of birth of a minor and, if applicable, any next friend; or

(8) (7) The full date of birth of any party; however, the year of birth shall be made available, except for a minor; or

(8) Any other information redacted for good cause by order of the court.

2. The information provided under subsection 1 of this section shall be provided in a confidential information filing sheet contemporaneously filed with the court or entered by the court, which shall not be subject to public inspection or availability.

3. Nothing in this section shall preclude an entity including, but not limited to, a financial institution, insurer, insurance support organization, or consumer reporting agency that is otherwise permitted by law to access state court records from using a person's unique identifying information to match such information contained in a court record to validate that person's record.

4. The Missouri supreme court shall promulgate rules to administer this section.

5. Contemporaneously with the filing of every petition for dissolution of marriage, legal separation, motion for modification, action to establish paternity, and petition or motion for support or custody of a minor child, the filing party shall file a confidential case filing sheet with the

court which shall not be subject to public inspection and which provides:

(1) The name and address of the current employer and the Social Security number of the petitioner or movant, if a person;

(2) If known to the petitioner or movant, the name and address of the current employer and the Social Security number of the respondent; and

(3) The names, dates of birth, and Social Security numbers of any children subject to the action.

6. Contemporaneously with the filing of every responsive pleading petition for dissolution of marriage, legal separation, motion for modification, action to establish paternity, and petition or motion for support or custody of a minor child, the responding party shall file a confidential case filing sheet with the court which shall not be subject to public inspection and which provides:

(1) The name and address of the current employer and the Social Security number of the responding party, if a person;

(2) If known to the responding party, the name and address of the current employer and the Social Security number of the petitioner or movant; and

(3) The names, dates of birth, and Social Security numbers of any children subject to the action.

7. The full Social Security number of any party or child subject to an order of custody or support shall be retained by the court on the confidential case filing sheet or other confidential record maintained in conjunction with the administration of the case. The full credit card number or other financial account number of any party may be retained by the court on a confidential record if it is

necessary to maintain the number in conjunction with the administration of the case.

8. Any document described in subsection 1 of this section shall, in lieu of the full number, include only the last four digits of any such number.

9. Except as provided in section 452.430, the clerk shall not be required to redact any document described in subsection 1 of this section issued or filed before August 28, 2009, prior to releasing the document to the public.

10. For good cause shown, the court may release information contained on the confidential case filing sheet; except that, any state agency acting under authority of chapter 454 shall have access to information contained herein without court order in carrying out their official duty.

510.500. Sections 510.500 to 510.521 shall be known and may be cited as the "Uniform Interstate Depositions and Discovery Act".

510.503. As used in sections 510.500 to 510.521, the following terms mean:

(1) "Foreign jurisdiction", a state other than this state;

(2) "Foreign subpoena", a subpoena issued under authority of a court of record of a foreign jurisdiction;

(3) "Person", an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or political subdivision, agency or instrumentality, or any other legal or commercial entity;

(4) "State", a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any

territory or insular possession subject to the jurisdiction of the United States;

(5) "Subpoena", a document, however denominated, issued under authority of a court of record requiring a person to:

(a) Attend and give testimony at a deposition;

(b) Produce and permit inspection and copying of designated books, documents, records, electronically stored information, or tangible items in the possession, custody, or control of the person; or

(c) Permit inspection of premises under the control of the person.

510.506. 1. To request issuance of a subpoena under this section, a party shall submit a foreign subpoena to a clerk of court in the county in which discovery is sought to be conducted in this state. A request for the issuance of a subpoena under sections 510.500 to 510.521 shall not constitute an appearance in the courts of this state.

2. If a party submits a foreign subpoena to a clerk of court in this state, the clerk, in accordance with such court's procedure, shall promptly issue a subpoena for service upon the person to which the foreign subpoena is directed.

3. A subpoena under subsection 2 of this section shall:

(1) Incorporate the terms used in the foreign subpoena; and

(2) Contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel.

510.509. A subpoena issued by a clerk of court under section 510.506 shall be served in compliance with the

Missouri supreme court rules of civil procedure and laws of this state.

510.512. The Missouri supreme court rules of civil procedure and laws of this state, and any amendments thereto, apply to subpoenas issued under section 510.506.

510.515. An application to the court for a protective order or to enforce, quash, or modify a subpoena issued by a clerk of court under section 510.506 shall comply with the Missouri supreme court rules of civil procedure and the laws of this state and be submitted to the court in the county in which discovery is to be conducted.

510.518. In applying and construing sections 510.500 to 510.521, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

510.521. Sections 510.500 to 510.521 apply to requests for discovery in cases pending on August 28, 2024.

534.157. All transfers of title of real property for rental properties with outstanding collectible judgments shall be filed in the circuit court within thirty days after transfer of title.

537.529. 1. This section shall be known and may be cited as the "Uniform Public Expression Protection Act".

2. As used in this section, the following terms mean:

(1) "Goods or services", does not include a dramatic, literary, musical, political, journalistic, or artistic work;

(2) "Governmental unit", any city, county, or other political subdivision of this state, or any department, division, board, or other agency of any political subdivision of this state;

(3) "Person", an individual, estate, trust, partnership, business or nonprofit entity, governmental unit, or other legal entity.

3. Except as otherwise provided in subsection 4 of this section, the provisions of this section shall apply to a cause of action asserted in a civil action against a person based on the person's:

(1) Communication in a legislative, executive, judicial, administrative, or other governmental proceeding;

(2) Communication on an issue under consideration or review in a legislative, executive, judicial, administrative, or other governmental proceeding; or

(3) Exercise of the right of freedom of speech or of the press, the right to assemble or petition, or the right of association, guaranteed by the Constitution of the United States or the Constitution of the state of Missouri, on a matter of public concern.

4. The provisions of this section shall not apply to a cause of action asserted:

(1) Against a governmental unit or an employee or agent of a governmental unit acting or purporting to act in an official capacity;

(2) By a governmental unit or an employee or agent of a governmental unit acting in an official capacity to enforce a law to protect against an imminent threat to public health or safety; or

(3) Against a person primarily engaged in the business of selling or leasing goods or services if the cause of action arises out of a communication related to the person's sale or lease of the goods or services.

5. No later than sixty days after a party is served with a complaint, crossclaim, counterclaim, third-party claim, or other pleading that asserts a cause of action to which this section applies, or at a later time on a showing of good cause, the party may file a special motion to dismiss the cause of action or part of the cause of action.

6. (1) Except as otherwise provided in this subsection:

(a) All other proceedings between the moving party and responding party in an action, including discovery and a pending hearing or motion, are stayed on the filing of a motion under subsection 5 of this section; and

(b) On motion by the moving party, the court may stay:

a. A hearing or motion involving another party if the ruling on the hearing or motion would adjudicate a legal or factual issue that is material to the motion under subsection 5 of this section; or

b. Discovery by another party if the discovery relates to a legal or factual issue that is material to the motion under subsection 5 of this section.

(2) A stay under subdivision (1) of this subsection remains in effect until entry of an order ruling on the motion filed under subsection 5 of this section and the expiration of the time to appeal the order.

(3) If a party appeals from an order ruling on a motion under subsection 5 of this section, all proceedings between all parties in an action are stayed. The stay remains in effect until the conclusion of the appeal.

(4) During a stay under subdivision (1) of this subsection, the court may allow limited discovery if a party shows that specific information is necessary to establish whether a party has satisfied or failed to satisfy a burden imposed by subdivision (1) of subsection 9 of this section and is not reasonably available without discovery.

(5) A motion for costs and expenses under subsection 12 of this section shall not be subject to a stay under this section.

(6) A stay under this subsection does not affect a party's ability to voluntarily dismiss a cause of action or part of a cause of action or move to sever a cause of action.

(7) During a stay under this section, the court for good cause may hear and rule on:

(a) A motion unrelated to the motion under subsection 5 of this section; and

(b) A motion seeking a special or preliminary injunction to protect against an imminent threat to public health or safety.

7. (1) The court shall hear a motion under subsection 5 of this section no later than sixty days after filing of the motion, unless the court orders a later hearing:

(a) To allow discovery under subdivision (4) of subsection 6 of this section; or

(b) For other good cause.

(2) If the court orders a later hearing under paragraph (a) of subdivision (1) of this subsection, the court shall hear the motion under subsection 5 of this section no later than sixty days after the court order allowing the discovery, subject to paragraph (b) of subdivision (1) of this subsection.

8. In ruling on a motion under subsection 5 of this section, the court shall consider the parties' pleadings, the motion, any replies and responses to the motion, and any evidence that could be considered in ruling on a motion for summary judgment.

9. (1) In ruling on a motion under subsection 5 of this section, the court shall dismiss with prejudice a cause of action or part of a cause of action if:

(a) The moving party establishes under subsection 3 of this section that this section applies;

(b) The responding party fails to establish under subsection 4 of this section that this section does not apply; and

(c) Either:

a. The responding party fails to establish a prima facie case as to each essential element of the cause of action; or

b. The moving party establishes that:

(i) The responding party failed to state a cause of action upon which relief can be granted; or

(ii) There is no genuine issue as to any material fact and the party is entitled to judgment as a matter of law on the cause of action or part of the cause of action.

(2) A voluntary dismissal without prejudice of a responding party's cause of action, or part of a cause of action, that is the subject of a motion under subsection 5 of this section does not affect a moving party's right to obtain a ruling on the motion and seek costs, reasonable attorney's fees, and reasonable litigation expenses under subsection 12 of this section.

(3) A voluntary dismissal with prejudice of a responding party's cause of action, or part of a cause of action, that is the subject of a motion under subsection 5 of this section establishes for the purpose of subsection 12 of this section that the moving party prevailed on the motion.

10. The court shall rule on a motion under subsection 5 of this section no later than sixty days after the hearing under subsection 7 of this section.

11. A moving party may appeal within twenty-one days as a matter of right from an order denying, in whole or in part, a motion under subsection 5 of this section.

12. On a motion under subsection 5 of this section, the court shall award costs, reasonable attorney's fees, and reasonable litigation expenses related to the motion:

(1) To the moving party if the moving party prevails on the motion; or

(2) To the responding party if the responding party prevails on the motion and the court finds that the motion was frivolous or filed solely with intent to delay the proceeding.

13. This section shall be broadly construed and applied to protect the exercise of the right of freedom of speech and of the press, the right to assemble and petition, and the right of association, guaranteed by the Constitution of the United States or the Constitution of the state of Missouri.

14. In applying and construing this section, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

15. This section applies to a civil action filed or cause of action asserted in a civil action on or after August 28, 2024.

559.125. 1. The clerk of the court shall keep in a permanent file all applications for probation or parole by the court, and shall keep in such manner as may be prescribed by the court complete and full records of all presentence investigations requested, probations or paroles granted, revoked or terminated and all discharges from probations or paroles. All court orders relating to any presentence investigation requested and probation or parole granted under the provisions of this chapter and sections 558.011 and 558.026 shall be kept in a like manner, and, if the defendant subject to any such order is subject to an

investigation or is under the supervision of the division of probation and parole, a copy of the order shall be sent to the division of probation and parole. In any county where a parole board ceases to exist, the clerk of the court shall preserve the records of that parole board.

2. Except in criminal proceedings, information and data obtained by a probation or parole officer shall be privileged information and shall not be receivable in any court. Such information shall not be disclosed directly or indirectly to anyone other than the members of a parole board and the judge entitled to receive reports, except the court, the division of probation and parole, or the parole board may in its discretion permit the inspection of the report, or parts of such report, by the defendant, or offender or his or her attorney, or other person having a proper interest therein.

3. The provisions of subsection 2 of this section notwithstanding, the presentence investigation report shall be made available to the state and all information and data obtained in connection with preparation of the presentence investigation report may be made available to the state at the discretion of the court upon a showing that the receipt of the information and data is in the best interest of the state.

566.151. 1. A person twenty-one years of age or older commits the offense of enticement of a child if he or she persuades, solicits, coaxes, entices, or lures whether by words, actions or through communication via the internet or any electronic communication, any person who is less than [fifteen] seventeen years of age for the purpose of engaging in sexual conduct.

2. It is not a defense to a prosecution for a violation of this section that the other person was a peace officer masquerading as a minor.

3. Enticement of a child or an attempt to commit enticement of a child is a felony for which the authorized term of imprisonment shall be not less than five years and not more than thirty years. No person convicted under this section shall be eligible for parole, probation, conditional release, or suspended imposition or execution of sentence for a period of five calendar years.

567.030. 1. A person commits the offense of patronizing prostitution if he or she:

(1) Pursuant to a prior understanding, gives something of value to another person as compensation for having engaged in sexual conduct with any person; or

(2) Gives or agrees to give something of value to another person with the understanding that such person or another person will engage in sexual conduct with any person; or

(3) Solicits or requests another person to engage in sexual conduct with any person in return for something of value.

2. It shall not be a defense that the person believed that the individual he or she patronized for prostitution was eighteen years of age or older.

3. The offense of patronizing prostitution is a class B misdemeanor, unless the individual who the person patronizes is less than eighteen years of age but older than fourteen fifteen years of age, in which case patronizing prostitution is a class E felony.

4. The offense of patronizing prostitution is a class [D] B felony if the individual who the person patronizes is fourteen fifteen years of age or younger. Nothing in this

section shall preclude the prosecution of an individual for the offenses of:

(1) Statutory rape in the first degree pursuant to section 566.032;

(2) Statutory rape in the second degree pursuant to section 566.034;

(3) Statutory sodomy in the first degree pursuant to section 566.062; or

(4) Statutory sodomy in the second degree pursuant to section 566.064.

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

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

3. The director of revenue shall deposit annually the amount of two hundred fifty thousand dollars to the state forensic laboratory account administered by the department of public safety to provide financial assistance to defray expenses of crime laboratories if such analytical laboratories are registered with the federal Drug Enforcement Agency or the Missouri department of health and senior services. Subject to appropriations made therefor, such funds shall be distributed by the department of public safety to the crime laboratories serving the courts of this state making analysis of a controlled substance or analysis of blood, breath or urine in relation to a court proceeding.

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

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

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

5. The director of revenue or such director's designee shall at least monthly report the moneys paid pursuant to this section into the crime victims' compensation fund and the services to victims fund to the department of public safety.

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

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

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

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

8. In addition to the moneys collected pursuant to subsection 1 of this section, the court shall enter a judgment in favor of the state of Missouri, payable to the

crime victims' compensation fund, of sixty-eight dollars upon a plea of guilty or a finding of guilt for a class A or B felony; forty-six dollars upon a plea of guilty or finding of guilt for a class C [or], D, or E felony; and ten dollars upon a plea of guilty or a finding of guilt for any misdemeanor under Missouri law except for those in chapter 252 relating to fish and game, chapter 302 relating to drivers' and commercial drivers' license, chapter 303 relating to motor vehicle financial responsibility, chapter 304 relating to traffic regulations, chapter 306 relating to watercraft regulation and licensing, and chapter 307 relating to vehicle equipment regulations. Any clerk of the court receiving moneys pursuant to such judgments shall collect and disburse such crime victims' compensation judgments in the manner provided by sections 488.010 to 488.020. Such funds shall be payable to the state treasury and deposited to the credit of the crime victims' compensation fund.

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

10. The department of revenue shall maintain records of funds transmitted to the crime victims' compensation fund

by each reporting court and collections pursuant to subsection 16 of this section and shall maintain separate records of collection for alcohol-related offenses.

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

12. All awards made to injured victims under sections 595.010 to 595.105 and all appropriations for administration of sections 595.010 to 595.105, except sections 595.050 and 595.055, shall be made from the crime victims' compensation fund. Any unexpended balance remaining in the crime victims' compensation fund at the end of each biennium shall not be subject to the provision of section 33.080 requiring the transfer of such unexpended balance to the ordinary revenue fund of the state, but shall remain in the crime victims' compensation fund. In the event that there are insufficient funds in the crime victims' compensation fund to pay all claims in full, all claims shall be paid on a pro rata basis. If there are no funds in the crime victims' compensation fund, then no claim shall be paid until funds have again accumulated in the crime victims' compensation fund. When sufficient funds become available from the fund, awards which have not been paid shall be paid in chronological order with the oldest paid first. In the event an award was to be paid in installments and some remaining installments have not been paid due to a lack of funds, then when funds do become available that award shall be paid in full. All such awards on which installments remain due shall be paid in full in chronological order before any other postdated award shall be paid. Any award pursuant to this subsection is specifically not a claim

against the state, if it cannot be paid due to a lack of funds in the crime victims' compensation fund.

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

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

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

16. The department may receive gifts and contributions for the benefit of crime victims. Such gifts and contributions shall be credited to the crime victims' compensation fund as used solely for compensating victims under the provisions of sections 595.010 to 595.075.

621.045. 1. The administrative hearing commission shall conduct hearings and make findings of fact and conclusions of law in those cases when, under the law, a license issued by any of the following agencies may be revoked or suspended or when the licensee may be placed on probation or when an agency refuses to permit an applicant to be examined upon his or her qualifications or refuses to issue or renew a license of an applicant who has passed an examination for licensure or who possesses the qualifications for licensure without examination:

Missouri State Board of Accountancy
Missouri State Board for Architects,
Professional Engineers, Professional Land
Surveyors and Landscape Architects
Board of Barber Examiners
Board of Cosmetology
Board of Chiropody and Podiatry
Board of Chiropractic Examiners
Missouri Dental Board
Board of Embalmers and Funeral Directors
Board of Registration for the Healing Arts
Board of Nursing
Board of Optometry
Board of Pharmacy
Missouri Real Estate Commission
Missouri Veterinary Medical Board
Supervisor of Liquor Control
Department of Health and Senior Services
Department of Commerce and Insurance
Department of Mental Health
Board of Private Investigator Examiners.

2. If in the future there are created by law any new or additional administrative agencies which have the power

to issue, revoke, suspend, or place on probation any license, then those agencies are under the provisions of this law.

3. The administrative hearing commission is authorized to conduct hearings and make findings of fact and conclusions of law in those cases brought by the Missouri state board for architects, professional engineers, professional land surveyors and landscape architects against unlicensed persons under section 327.076.

4. The administrative hearing commission is authorized to conduct hearings and make findings of fact and conclusions of law in those cases brought by the division of workers' compensation of the department of labor and industrial relations against administrative law judges under section 287.610.

5. Notwithstanding any other provision of this section to the contrary, after August 28, 1995, in order to encourage settlement of disputes between any agency described in subsection 1 or 2 of this section and its licensees, any such agency shall:

(1) Provide the licensee with a written description of the specific conduct for which discipline is sought and a citation to the law and rules allegedly violated, together with copies of any documents which are the basis thereof and the agency's initial settlement offer, or file a contested case against the licensee;

(2) If no contested case has been filed against the licensee, allow the licensee at least sixty days, from the date of mailing, to consider the agency's initial settlement offer and to contact the agency to discuss the terms of such settlement offer;

(3) If no contested case has been filed against the licensee, advise the licensee that the licensee may, either

at the time the settlement agreement is signed by all parties, or within fifteen days thereafter, submit the agreement to the administrative hearing commission for determination that the facts agreed to by the parties to the settlement constitute grounds for denying or disciplining the license of the licensee; and

(4) In any contact under this subsection by the agency or its counsel with a licensee who is not represented by counsel, advise the licensee that the licensee has the right to consult an attorney at the licensee's own expense.

[5.] 6. If the licensee desires review by the administrative hearing commission under subdivision (3) of subsection **[4]** 5 of this section at any time prior to the settlement becoming final, the licensee may rescind and withdraw from the settlement and any admissions of fact or law in the agreement shall be deemed withdrawn and not admissible for any purposes under the law against the licensee. Any settlement submitted to the administrative hearing commission shall not be effective and final unless and until findings of fact and conclusions of law are entered by the administrative hearing commission that the facts agreed to by the parties to the settlement constitute grounds for denying or disciplining the license of the licensee.

[6.] 7. When a holder of a license, registration, permit, or certificate of authority issued by the division of professional registration or a board, commission, or committee of the division of professional registration against whom an affirmative decision is sought has failed to plead or otherwise respond in the contested case and adequate notice has been given under sections 536.067 and 621.100 upon a properly pled writing filed to initiate the contested case under this chapter or chapter 536, a default

decision shall be entered against the licensee without further proceedings. The default decision shall grant such relief as requested by the division of professional registration, board, committee, commission, or office in the writing initiating the contested case as allowed by law. Upon motion stating facts constituting a meritorious defense and for good cause shown, a default decision may be set aside. The motion shall be made within a reasonable time, not to exceed thirty days after entry of the default decision. "Good cause" includes a mistake or conduct that is not intentionally or recklessly designed to impede the administrative process.

[435.014. 1. If all the parties to a dispute agree in writing to submit their dispute to any forum for arbitration, conciliation or mediation, then no person who serves as arbitrator, conciliator or mediator, nor any agent or employee of that person, shall be subpoenaed or otherwise compelled to disclose any matter disclosed in the process of setting up or conducting the arbitration, conciliation or mediation.]

2. Arbitration, conciliation and mediation proceedings shall be regarded as settlement negotiations. Any communication relating to the subject matter of such disputes made during the resolution process by any participant, mediator, conciliator, arbitrator or any other person present at the dispute resolution shall be a confidential communication. No admission, representation, statement or other confidential communication made in setting up or conducting such proceedings not otherwise discoverable or obtainable shall be admissible as evidence or subject to discovery.]

[469.409. 1. Any claim for breach of a trustee's duty to impartially administer a trust related, directly or indirectly, to an adjustment made by a fiduciary to the allocation between principal and income pursuant to subsection 1 of section 469.405 or any

allocation made by the fiduciary pursuant to any authority or discretion specified in subsection 1 of section 469.403, unless previously barred by adjudication, consent or other limitation, shall be barred as provided in this section.

(1) Any such claim brought by a qualified beneficiary is barred if not asserted in a judicial proceeding commenced within two years after the trustee has sent a report to that qualified beneficiary that adequately discloses the facts constituting the claim.

(2) Any such claim brought by a beneficiary (other than a qualified beneficiary) with any interest whatsoever in the trust, no matter how remote or contingent, or whether or not the beneficiary is ascertainable or has the capacity to contract, is barred if not asserted in a judicial proceeding commenced within two years after the first to occur of:

(a) The date the trustee sent a report to all qualified beneficiaries that adequately discloses the facts constituting the claim; or

(b) The date the trustee sent a report to a person that represents the beneficiary under the provisions of subdivision (2) of subsection 2 of this section.

2. For purposes of this section the following rules shall apply:

(1) A report adequately discloses the facts constituting a claim if it provides sufficient information so that the beneficiary should know of the claim or reasonably should have inquired into its existence;

(2) Section 469.402 shall apply in determining whether a beneficiary (including a qualified beneficiary) has received notice for purposes of this section;

(3) The determination of the identity of all qualified beneficiaries shall be made on the date the report is deemed to have been sent; and

(4) This section does not preclude an action to recover for fraud or misrepresentation related to the report.]

[469.411. 1. (1) If the provisions of this section apply to a trust, the unitrust

amount determined for each accounting year of the trust shall be a percentage between three and five percent of the average net fair market value of the trust, as of the first day of the trust's current accounting year. The percentage applicable to a trust shall be that percentage specified by the terms of the governing instrument or by the election made in accordance with subdivision (2) of subsection 5 of this section.

(2) The unitrust amount for the current accounting year computed pursuant to this section shall be proportionately reduced for any distributions, in whole or in part, other than distributions of the unitrust amount, and for any payments of expenses, including debts, disbursements and taxes, from the trust within a current accounting year that the trustee determines to be material and substantial, and shall be proportionately increased for the receipt, other than a receipt that represents a return on investment, of any additional property into the trust within a current accounting year.

(3) For purposes of this section, the net fair market values of the assets held in the trust on the first business day of a prior accounting quarter shall be adjusted to reflect any reduction, in the case of a distribution or payment, or increase, in the case of a receipt, for the prior accounting year pursuant to subdivision (1) of this subsection, as if the distribution, payment or receipt had occurred on the first day of the prior accounting year.

(4) In the case of a short accounting period, the trustee shall prorate the unitrust amount on a daily basis.

(5) In the case where the net fair market value of an asset held in the trust has been incorrectly determined in any quarter, the unitrust amount shall be increased in the case of an undervaluation, or be decreased in the case of an overvaluation, by an amount equal to the difference between the unitrust amount determined based on the correct valuation of the asset and the unitrust amount originally determined.

2. As used in this section, the following terms mean:

(1) "Average net fair market value", a rolling average of the fair market value of the assets held in the trust on the first business day of the lessor of the number of accounting quarters of the trust from the date of inception of the trust to the determination of the trust's average net fair market value, or twelve accounting quarters of the trust, regardless of whether this section applied to the ascertainment of net income for all valuation quarters;

(2) "Current accounting year", the accounting period of the trust for which the unitrust amount is being determined.

3. In determining the average net fair market value of the assets held in the trust, there shall not be included the value of:

(1) Any residential property or any tangible personal property that, as of the first business day of the current valuation year, one or more income beneficiaries of the trust have or had the right to occupy, or have or had the right to possess or control, other than in a capacity as trustee, and instead the right of occupancy or the right to possession or control shall be deemed to be the unitrust amount with respect to the residential property or the tangible personal property; or

(2) Any asset specifically given to a beneficiary under the terms of the trust and the return on investment on that asset, which return on investment shall be distributable to the beneficiary.

4. In determining the average net fair market value of the assets held in the trust pursuant to subsection 1 of this section, the trustee shall, not less often than annually, determine the fair market value of each asset of the trust that consists primarily of real property or other property that is not traded on a regular basis in an active market by appraisal or other reasonable method or estimate, and that determination, if made reasonably and in good faith, shall be conclusive as to all persons

interested in the trust. Any claim based on a determination made pursuant to this subsection shall be barred if not asserted in a judicial proceeding brought by any beneficiary with any interest whatsoever in the trust within two years after the trustee has sent a report to all qualified beneficiaries that adequately discloses the facts constituting the claim. The rules set forth in subsection 2 of section 469.409 shall apply to the barring of claims pursuant to this subsection.

5. This section shall apply to the following trusts:

(1) Any trust created after August 28, 2001, with respect to which the terms of the trust clearly manifest an intent that this section apply;

(2) Any trust created under an instrument that became irrevocable on, before, or after August 28, 2001, if the trustee, in the trustee's discretion, elects to have this section apply unless the instrument creating the trust specifically prohibits an election under this subdivision. The trustee shall deliver notice to all qualified beneficiaries and the settlor of the trust, if he or she is then living, of the trustee's intent to make such an election at least sixty days before making that election. The trustee shall have sole authority to make the election. Section 469.402 shall apply for all purposes of this subdivision. An action or order by any court shall not be required. The election shall be made by a signed writing delivered to the settlor of the trust, if he or she is then living, and to all qualified beneficiaries. The election is irrevocable, unless revoked by order of the court having jurisdiction of the trust. The election may specify the percentage used to determine the unitrust amount pursuant to this section, provided that such percentage is between three and five percent, or if no percentage is specified, then that percentage shall be three percent. In making an election pursuant to this subsection, the trustee shall be subject to the same limitations and

conditions as apply to an adjustment between income and principal pursuant to subsections 3 and 4 of section 469.405; and

(3) No action of any kind based on an election made by a trustee pursuant to subdivision (2) of this subsection shall be brought against the trustee by any beneficiary of that trust three years from the effective date of that election.

6. (1) Once the provisions of this section become applicable to a trust, the net income of the trust shall be the unitrust amount.

(2) Unless otherwise provided by the governing instrument, the unitrust amount distributed each year shall be paid from the following sources for that year up to the full value of the unitrust amount in the following order:

(a) Net income as determined if the trust were not a unitrust;

(b) Other ordinary income as determined for federal income tax purposes;

(c) Assets of the trust principal for which there is a readily available market value; and

(d) Other trust principal.

(3) Additionally, the trustee may allocate to trust income for each taxable year of the trust, or portion thereof:

(a) Net short-term capital gain described in the Internal Revenue Code, 26 U.S.C. Section 1222(5), for such year, or portion thereof, but only to the extent that the amount so allocated together with all other amounts to trust income, as determined under the provisions of this chapter without regard to this section, for such year, or portion thereof, does not exceed the unitrust amount for such year, or portion thereof;

(b) Net long-term capital gain described in the Internal Revenue Code, 26 U.S.C. Section 1222(7), for such year, or portion thereof, but only to the extent that the amount so allocated together with all other amounts, including amounts described in paragraph (a) of this subdivision, allocated to trust income for such

year, or portion thereof, does not exceed the unitrust amount for such year, or portion thereof.

7. A trust with respect to which this section applies on August 28, 2011, may calculate the unitrust amount in accordance with the provisions of this section, as it existed either before or after such date, as the trustee of such trust shall determine in a writing kept with the records of the trust in the trustee's discretion.]

[469.461. 1. A fiduciary may make adjustments between principal and income to offset the shifting of economic interests or tax benefits between income beneficiaries and remainder beneficiaries which arise from:

(1) Elections and decisions, other than those described in subsection 2 of this section, that the fiduciary makes from time to time regarding tax matters;

(2) An income tax or any other tax that is imposed upon the fiduciary or a beneficiary as a result of a transaction involving or a distribution from the estate or trust; or

(3) The ownership by an estate or trust of an interest in an entity whose taxable income, whether or not distributed, is includable in the taxable income of the estate, trust or a beneficiary.

2. If the amount of an estate tax marital deduction or charitable contribution deduction is reduced because a fiduciary deducts an amount paid from principal for income tax purposes instead of deducting it for estate tax purposes, and as a result estate taxes paid from principal are increased and income taxes paid by an estate, trust or beneficiary are decreased, each estate, trust or beneficiary that benefits from the decrease in income tax shall reimburse the principal from which the increase in estate tax is paid. The total reimbursement shall equal the increase in the estate tax to the extent that the principal used to pay the increase would have qualified for a marital deduction or charitable contribution deduction but for the

payment. The proportionate share of the reimbursement for each estate, trust or beneficiary whose income taxes are reduced shall be the same as its proportionate share of the total decrease in income tax. An estate or trust shall reimburse principal from income.]

[537.528. 1. Any action against a person for conduct or speech undertaken or made in connection with a public hearing or public meeting, in a quasi-judicial proceeding before a tribunal or decision-making body of the state or any political subdivision of the state is subject to a special motion to dismiss, motion for judgment on the pleadings, or motion for summary judgment that shall be considered by the court on a priority or expedited basis to ensure the early consideration of the issues raised by the motion and to prevent the unnecessary expense of litigation. Upon the filing of any special motion described in this subsection, all discovery shall be suspended pending a decision on the motion by the court and the exhaustion of all appeals regarding the special motion.

2. If the rights afforded by this section are raised as an affirmative defense and if a court grants a motion to dismiss, a motion for judgment on the pleadings or a motion for summary judgment filed within ninety days of the filing of the moving party's answer, the court shall award reasonable attorney fees and costs incurred by the moving party in defending the action. If the court finds that a special motion to dismiss or motion for summary judgment is frivolous or solely intended to cause unnecessary delay, the court shall award costs and reasonable attorney fees to the party prevailing on the motion.

3. Any party shall have the right to an expedited appeal from a trial court order on the special motions described in subsection 2 of this section or from a trial court's failure to rule on the motion on an expedited basis.

4. As used in this section, a "public meeting in a quasi-judicial proceeding" means and includes any meeting established and held by

a state or local governmental entity, including without limitations meetings or presentations before state, county, city, town or village councils, planning commissions, review boards or commissions.

5. Nothing in this section limits or prohibits the exercise of a right or remedy of a party granted pursuant to another constitutional, statutory, common law or administrative provision, including civil actions for defamation.

6. If any provision of this section or the application of any provision of this section to a person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

7. The provisions of this section shall apply to all causes of actions.】