

SENATE BILL NO. 742

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHROER.

2934S.01I

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 56.010, 56.805, 56.814, 542.400, 552.040, 557.014, and 610.140, RSMo, and to enact in lieu thereof thirteen new sections relating to district attorneys.

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

Section A. Sections 56.010, 56.805, 56.814, 542.400, 552.040, 557.014, and 610.140, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 56.010, 56.805, 56.814, 56.1000, 56.1005, 56.1010, 56.1015, 56.1020, 56.1025, 542.400, 552.040, 557.014, and 610.140, to read as follows:

56.010. At the general election [to be held in this state in the year A.D. 1982, and every four years thereafter] **in the year 2026**, there shall be elected in each county [of this state] **which has not elected to become part of the district attorney system** a prosecuting attorney, who shall be a person learned in the law, duly licensed to practice as an attorney at law in this state, and enrolled as such, at least twenty-one years of age, and who has been a bona fide resident of the county in which he seeks election for twelve months next preceding the date of the general election at which he is a candidate for such office and shall hold his office for four years, and until his successor is elected, commissioned and qualified.

56.805. As used in sections 56.800 to 56.840, the following words and terms mean:

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

3 (1) "Annuity", annual payments, made in equal monthly
4 installments, to a retired member from funds provided for,
5 in, or authorized by, the provisions of sections 56.800 to
6 56.840;

7 (2) "Average final compensation", the average
8 compensation of an employee for the two consecutive years
9 prior to retirement when the employee's compensation was
10 greatest;

11 (3) "Board of trustees" or "board", the board of
12 trustees established by the provisions of sections 56.800 to
13 56.840;

14 (4) "Compensation", all salary and other compensation
15 payable by a county to an employee for personal services
16 rendered as an employee, including any salary reduction
17 amounts under a cafeteria plan that satisfies 26 U.S.C.
18 Section 125 or an eligible deferred compensation plan that
19 satisfies 26 U.S.C. Section 457 but not including
20 reimbursement for any expenses, any consideration for
21 agreeing to terminate employment, or any other nonrecurring
22 or unusual payment that is not part of regular remuneration;

23 (5) "County", the City of St. Louis and each county in
24 the state;

25 (6) "Creditable service", the sum of both membership
26 service and creditable prior service;

27 (7) "Effective date of the establishment of the
28 system", August 28, 1989;

29 (8) "Employee", an elected or appointed prosecuting
30 attorney or circuit attorney who is employed by a county or
31 a city not within a county **or an elected or appointed**
32 **district attorney who is employed by a judicial circuit;**

33 (9) "Membership service", service as a prosecuting
34 attorney or circuit attorney after becoming a member that is

35 creditable in determining the amount of the member's
36 benefits under this system;

37 (10) "Prior service", service of a member rendered
38 prior to the effective date of the establishment of the
39 system which is creditable under section 56.823;

40 (11) **"Prosecuting attorney", includes any elected or**
41 **appointed prosecuting attorney or district attorney;**

42 (12) "Retirement system" or "system", the prosecuting
43 attorneys and circuit attorneys' retirement system
44 authorized by the provisions of sections 56.800 to 56.840.

56.814. 1. Any person who became a member prior to
2 January 1, 2019, who has attained the age of sixty-two years
3 and who has twelve years or more of creditable service as
4 prosecuting attorney or circuit attorney may retire with a
5 normal annuity as determined in subsection 3 of section
6 56.840.

7 2. Any person who becomes a member on or after January
8 1, 2019, who has attained the age of sixty-five and who has
9 twelve years or more of creditable service as a prosecuting
10 attorney or circuit attorney may retire with a normal
11 annuity.

12 3. **Any person who is a member of the retirement system**
13 **on December 31, 2025, and who has served more than four**
14 **years as a prosecuting attorney in a county which elects to**
15 **become part of the district attorney system and who does not**
16 **become a district attorney on January 1, 2026, may elect to**
17 **receive a reduced retirement benefit as provided in section**
18 **56.816 that the person's period of service equals twelve**
19 **years.**

20 4. **Any person who is a member of the retirement system**
21 **on December 31, 2029, and who has served more than four**
22 **years as a prosecuting attorney in a county that becomes a**

23 part of the district attorney system in the year 2030, and
24 who does not become a district attorney on January 1, 2030,
25 may elect to receive a reduced retirement benefit as
26 provided in section 56.816 that the person's period of
27 service equals twelve years.

56.1000. 1. (1) At the general election in the year
2 2026, there shall be elected in each judicial circuit of
3 this state a district attorney for those counties in the
4 circuit that elect to become part of the district attorney
5 system.

6 (2) At the general election in the year 2030, and
7 every four years thereafter, there shall be elected in each
8 judicial circuit of this state a district attorney.

9 2. Each district attorney shall be duly licensed to
10 practice as an attorney at law in this state and shall have
11 been a bona fide resident of the judicial circuit in which
12 such person seeks election for twelve months next preceding
13 the date of the general election at which such person is a
14 candidate for such office.

15 3. The geographical boundaries of the judicial
16 circuits shall correspond to those authorized by a circuit
17 realignment plan developed in accordance with section
18 478.073.

19 4. District attorneys elected under the provisions of
20 this section shall enter upon the discharge of their duties
21 on the first day of January following their election,
22 commission, and qualification.

23 5. The district attorney of each judicial circuit
24 shall receive the same annual salary as that of a circuit
25 judge, which shall be paid by the state out of the state
26 treasury. A district attorney in a judicial circuit
27 consisting of a single county with a charter form of

28 government may receive additional compensation set by the
29 governing body of the county in its sole discretion and paid
30 out of the county treasury, chargeable to the county general
31 revenue fund.

56.1005. 1. Each district attorney shall commence and
2 prosecute all criminal and ancillary actions in which a
3 county or state is concerned in those counties of the
4 judicial circuit. In cases in which changes of venue are
5 granted, the district attorney shall follow and continue
6 prosecution of the case. If any misdemeanor case is
7 appealed to the court of appeals, the district attorney
8 shall represent the state in the case in the court.

9 2. Notwithstanding any provision of law to the
10 contrary, if a district attorney is unable to commence or
11 prosecute a criminal case due to conflict of interest on the
12 part of the district attorney, the presiding judge shall
13 appoint the district attorney from any adjoining circuit as
14 special district attorney for that particular matter.

56.1010. 1. The district attorney may appoint such
2 full-time and part-time assistant district attorneys, and
3 may employ such investigators and stenographic and clerical
4 help as the district attorney deems necessary for the proper
5 discharge of the duties of the district attorney's office,
6 and may set their compensation within the limits of the
7 allocations made for that purpose by the county
8 commissions. The compensation for the assistant district
9 attorneys, investigators, and stenographic and clerical help
10 shall be paid in equal installments out of the county
11 treasury in the same manner as the compensation for other
12 county employees.

13 2. All assistant district attorneys, investigators,
14 and stenographic and clerical help shall hold office at the
15 pleasure of the district attorney.

 56.1015. 1. Except for the salary of the district
2 attorney as provided under subsection 5 of section 56.1000,
3 the salaries, expenses, and overhead costs of all district
4 attorney offices shall be funded by the respective counties
5 which such offices serve subject to reimbursement by the
6 state as described in this section.

7 2. For the district attorney offices in judicial
8 circuits consisting of one county, the state shall reimburse
9 the percentage of the office budget by five percent every
10 year for which the district attorney system has been adopted
11 until the tenth and subsequent years, for which the
12 percentage of the office budget that is reimbursed shall be
13 fifty percent.

14 3. For district attorney offices in judicial circuits
15 consisting of two or more counties, the state shall
16 reimburse the percentage of the office budget by ten percent
17 every year for which the district attorney system has been
18 adopted until the fifth and subsequent years, for which the
19 percentage of the office budget that is reimbursed shall be
20 fifty percent.

21 4. The office of administration shall make payment for
22 the reimbursement from appropriations made for that purpose
23 on or before July fifteenth of each year following the
24 calendar year in which such expenses by the counties were
25 paid. In circuits where more than one county contributed to
26 payment of the expenses of the district attorney's office,
27 each of the counties shall be reimbursed in the same
28 proportion as its contribution.

56.1020. Except in the performance of special
 2 prosecutions or otherwise representing the state or its
 3 political subdivisions, the district attorney shall devote
 4 full time to the office, and shall not otherwise engage in
 5 the practice of law.

56.1025. 1. For counties not having a charter form of
 2 government to join the district attorney system, the county
 3 commission of each county within a judicial circuit shall
 4 adopt by majority vote a resolution to join the district
 5 attorney system and such resolution shall be in
 6 substantially the following form:

7 "The county commission for
 8
 9 County hereby certifies that it has met and voted
 10 to join the state district attorney system and
 11 thereby eliminate the office of prosecuting
 12 attorney.".

2. The resolutions provided for in subsection 1 of
 13 this section shall be transmitted to the secretary of state
 14 by November 3, 2025, and such election shall be irrevocable
 15 once such resolution is transmitted.
 16

3. For counties with a charter form of government in a
 17 single county judicial circuit to join the district attorney
 18 system, the governing body shall adopt, by charter
 19 amendment, a provision to join the district attorney system
 20 and eliminate the office of prosecuting attorney.
 21

4. Except as otherwise provided by law, the office of
 22 county prosecuting attorney shall cease to exist upon the
 23 election and qualification of a district attorney for that
 24 county and judicial circuit, except any prosecuting attorney
 25 may be retained by a district attorney.
 26

542.400. As used in sections 542.400 to 542.422, the following words and phrases mean:

(1) "Aggrieved person", a person who was a party to any intercepted wire communication or a person against whom the interception was directed;

(2) "Communication common carrier", an individual or corporation undertaking to transport messages for compensation;

(3) "Contents", when used with respect to any wire communication, includes any information concerning the identity of the parties, the substance, purport, or meaning of that communication;

(4) "Court of competent jurisdiction", any circuit court having general criminal jurisdiction within the territorial jurisdiction where the communication is to be intercepted including any circuit judge specially assigned by the supreme court of Missouri pursuant to section 542.404;

(5) "Electronic, mechanical, or other device", any device or apparatus which can be used to intercept a wire communication other than:

(a) Any telephone or telegraph instrument, equipment or facility, or any component thereof, owned by the user or furnished to the subscriber or user by a communications common carrier in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business or being used by a communications common carrier in the ordinary course of its business or by an investigative office or law enforcement officer in the ordinary course of his duties; or

(b) A hearing aid or similar device being used to correct subnormal hearing to not better than normal;

32 (6) "Intercept", the aural acquisition of the contents
33 of any wire communication through the use of any electronic
34 or mechanical device, including but not limited to
35 interception by one spouse of another spouse;

36 (7) "Investigative officer" or "law enforcement
37 officer or agency", any officer or agency of this state or a
38 political subdivision of this state, who is empowered by law
39 to conduct investigations of or to make arrests for offenses
40 enumerated in sections 542.400 to 542.422, and any attorney
41 authorized by law to prosecute or participate in the
42 prosecution of such offenses;

43 (8) "Oral communication", any communication uttered by
44 a person exhibiting an expectation that such communication
45 is not subject to interception under circumstances
46 justifying such expectation;

47 (9) "Person", any employee, or agent of this state or
48 political subdivision of this state, and any individual,
49 partnership, association, joint stock company, trust, or
50 corporation;

51 (10) "Prosecuting attorney", the elected prosecuting
52 attorney **or district attorney** of the county or the circuit
53 attorney of any city not contained within a county;

54 (11) "State", the state of Missouri and political
55 subdivisions of the state;

56 (12) "Wire communication", any communication made in
57 whole or in part through the use of facilities for the
58 transmission of communications by the aid of wire, cable, or
59 other like connection between the point of origin and the
60 point of reception including the use of such connection in a
61 switching station furnished or operated by any person
62 engaged as a common carrier in providing or operating such

63 facilities for the transmission of local, state or
64 interstate communications.

552.040. 1. For the purposes of this section, the
2 following words mean:

3 (1) "Prosecutor of the jurisdiction", the prosecuting
4 attorney **or district attorney** in a county or the circuit
5 attorney of a city not within a county;

6 (2) "Secure facility", a state mental health facility,
7 state developmental disability facility, private facility
8 under contract with the department of mental health, or a
9 section within any of these facilities, in which persons
10 committed to the department of mental health pursuant to
11 this chapter shall not be permitted to move about the
12 facility or section of the facility, nor to leave the
13 facility or section of the facility, without approval by the
14 head of the facility or such head's designee and adequate
15 supervision consistent with the safety of the public and the
16 person's treatment, habilitation or rehabilitation plan;

17 (3) "Tried and acquitted" includes both pleas of
18 mental disease or defect excluding responsibility that are
19 accepted by the court and acquittals on the ground of mental
20 disease or defect excluding responsibility following the
21 proceedings set forth in section 552.030.

22 2. When an accused is tried and acquitted on the
23 ground of mental disease or defect excluding responsibility,
24 the court shall order such person committed to the director
25 of the department of mental health for custody. The court
26 shall also order custody and care in a state mental health
27 or intellectual disability facility unless an immediate
28 conditional release is granted pursuant to this section. If
29 the accused has not been charged with a dangerous felony as
30 defined in section 556.061, or with murder in the first

31 degree pursuant to section 565.020, or sexual assault
32 pursuant to section 566.040, or the attempts thereof, and
33 the examination contains an opinion that the accused should
34 be immediately conditionally released to the community by
35 the court, the court shall hold a hearing to determine if an
36 immediate conditional release is appropriate pursuant to the
37 procedures for conditional release set out in subsections 10
38 to 14 of this section. Prior to the hearing, the court
39 shall direct the director of the department of mental
40 health, or the director's designee, to have the accused
41 examined to determine conditions of confinement in
42 accordance with subsection 5 of section 552.020. The
43 provisions of subsection 16 of this section shall be
44 applicable to defendants granted an immediate conditional
45 release and the director shall honor the immediate
46 conditional release as granted by the court. If the court
47 determines that an immediate conditional release is
48 warranted, the court shall order the person committed to the
49 director of the department of mental health before ordering
50 such a release. The court granting the immediate
51 conditional release shall retain jurisdiction over the case
52 for the duration of the conditional release. This shall not
53 limit the authority of the director of the department of
54 mental health or the director's designee to revoke the
55 conditional release or the trial release of any committed
56 person pursuant to subsection 17 of this section. If the
57 accused is committed to a mental health or developmental
58 disability facility, the director of the department of
59 mental health, or the director's designee, shall determine
60 the time, place and conditions of confinement.

61 3. The provisions of sections 630.110, 630.115,
62 630.130, 630.133, 630.135, 630.140, 630.145, 630.150,

63 630.180, 630.183, 630.192, 630.194, 630.196, 630.198,
64 630.805, 632.370, 632.395, and 632.435 shall apply to
65 persons committed pursuant to subsection 2 of this section.
66 If the department does not have a treatment or
67 rehabilitation program for a mental disease or defect of an
68 individual, that fact may not be the basis for a release
69 from commitment. Notwithstanding any other provision of law
70 to the contrary, no person committed to the department of
71 mental health who has been tried and acquitted by reason of
72 mental disease or defect as provided in section 552.030
73 shall be conditionally or unconditionally released unless
74 the procedures set out in this section are followed. Upon
75 request by an indigent committed person, the appropriate
76 court may appoint the office of the public defender to
77 represent such person in any conditional or unconditional
78 release proceeding under this section.

79 4. Notwithstanding section 630.115, any person
80 committed pursuant to subsection 2 of this section shall be
81 kept in a secure facility until such time as a court of
82 competent jurisdiction enters an order granting a
83 conditional or unconditional release to a nonsecure facility.

84 5. The committed person or the head of the facility
85 where the person is committed may file an application in the
86 court that committed the person seeking an order releasing
87 the committed person unconditionally; except that any person
88 who has been denied an application for a conditional release
89 pursuant to subsection 13 of this section shall not be
90 eligible to file for an unconditional release until the
91 expiration of one year from such denial. In the case of a
92 person who was immediately conditionally released after
93 being committed to the department of mental health, the
94 released person or the director of the department of mental

95 health, or the director's designee, may file an application
96 in the same court that released the committed person seeking
97 an order releasing the committed person unconditionally.
98 Copies of the application shall be served personally or by
99 certified mail upon the head of the facility unless the head
100 of the facility files the application, the committed person
101 unless the committed person files the application, or unless
102 the committed person was immediately conditionally released,
103 the director of the department of mental health, and the
104 prosecutor of the jurisdiction where the committed person
105 was tried and acquitted. Any party objecting to the
106 proposed release must do so in writing within thirty days
107 after service. Within a reasonable period of time after any
108 written objection is filed, which period shall not exceed
109 sixty days unless otherwise agreed upon by the parties, the
110 court shall hold a hearing upon notice to the committed
111 person, the head of the facility, if necessary, the director
112 of the department of mental health, and the prosecutor of
113 the jurisdiction where the person was tried. Prior to the
114 hearing any of the parties, upon written application, shall
115 be entitled to an examination of the committed person, by a
116 psychiatrist or psychologist, as defined in section 632.005,
117 or a physician with a minimum of one year training or
118 experience in providing treatment or services to
119 intellectually disabled or mentally ill individuals of its
120 own choosing and at its expense. The report of the mental
121 condition of the committed person shall accompany the
122 application. By agreement of all parties to the proceeding
123 any report of the mental condition of the committed person
124 which may accompany the application for release or which is
125 filed in objection thereto may be received by evidence, but
126 the party contesting any opinion therein shall have the

127 right to summon and to cross-examine the examiner who
128 rendered such opinion and to offer evidence upon the issue.

129 6. By agreement of all the parties and leave of court,
130 the hearing may be waived, in which case an order granting
131 an unconditional release shall be entered in accordance with
132 subsection 8 of this section.

133 7. At a hearing to determine if the committed person
134 should be unconditionally released, the court shall consider
135 the following factors in addition to any other relevant
136 evidence:

137 (1) Whether or not the committed person presently has
138 a mental disease or defect;

139 (2) The nature of the offense for which the committed
140 person was committed;

141 (3) The committed person's behavior while confined in
142 a mental health facility;

143 (4) The elapsed time between the hearing and the last
144 reported unlawful or dangerous act;

145 (5) Whether the person has had conditional releases
146 without incident; and

147 (6) Whether the determination that the committed
148 person is not dangerous to himself or others is dependent on
149 the person's taking drugs, medicine or narcotics.

150 The burden of persuasion for any person committed to a
151 mental health facility under the provisions of this section
152 upon acquittal on the grounds of mental disease or defect
153 excluding responsibility shall be on the party seeking
154 unconditional release to prove by clear and convincing
155 evidence that the person for whom unconditional release is
156 sought does not have, and in the reasonable future is not

157 likely to have, a mental disease or defect rendering the
158 person dangerous to the safety of himself or others.

159 8. The court shall enter an order either denying the
160 application for unconditional release or granting an
161 unconditional release. An order denying the application
162 shall be without prejudice to the filing of another
163 application after the expiration of one year from the denial
164 of the last application.

165 9. No committed person shall be unconditionally
166 released unless it is determined through the procedures in
167 this section that the person does not have, and in the
168 reasonable future is not likely to have, a mental disease or
169 defect rendering the person dangerous to the safety of
170 himself or others.

171 10. The committed person or the head of the facility
172 where the person is committed may file an application in the
173 court having probate jurisdiction over the facility where
174 the person is detained for a hearing to determine whether
175 the committed person shall be released conditionally. In
176 the case of a person committed to a mental health facility
177 upon acquittal on the grounds of mental disease or defect
178 excluding responsibility for a dangerous felony as defined
179 in section 556.061, murder in the first degree pursuant to
180 section 565.020, or sexual assault pursuant to section
181 566.040, any such application shall be filed in the court
182 that committed the person. In such cases, jurisdiction over
183 the application for conditional release shall be in the
184 committing court. In the case of a person who was
185 immediately conditionally released after being committed to
186 the department of mental health, the released person or the
187 director of the department of mental health, or the
188 director's designee, may file an application in the same

189 court that released the person seeking to amend or modify
190 the existing release. The procedures for application for
191 unconditional releases set out in subsection 5 of this
192 section shall apply, with the following additional
193 requirements:

194 (1) A copy of the application shall also be served
195 upon the prosecutor of the jurisdiction where the person is
196 being detained, unless the released person was immediately
197 conditionally released after being committed to the
198 department of mental health, or unless the application was
199 required to be filed in the court that committed the person
200 in which case a copy of the application shall be served upon
201 the prosecutor of the jurisdiction where the person was
202 tried and acquitted and the prosecutor of the jurisdiction
203 into which the committed person is to be released;

204 (2) The prosecutor of the jurisdiction where the
205 person was tried and acquitted shall use their best efforts
206 to notify the victims of dangerous felonies. Notification
207 by the appropriate person or agency by certified mail to the
208 most current address provided by the victim shall constitute
209 compliance with the victim notification requirement of this
210 section;

211 (3) The application shall specify the conditions and
212 duration of the proposed release;

213 (4) The prosecutor of the jurisdiction where the
214 person is being detained shall represent the public safety
215 interest at the hearing unless the prosecutor of the
216 jurisdiction where the person was tried and acquitted
217 decides to appear to represent the public safety interest.

218 If the application for release was required to be filed in
219 the committing court, the prosecutor of the jurisdiction

220 where the person was tried and acquitted shall represent the
221 public safety interest. In the case of a person who was
222 immediately conditionally released after being committed to
223 the department of mental health, the prosecutor of the
224 jurisdiction where the person was tried and acquitted shall
225 appear and represent the public safety interest.

226 11. By agreement of all the parties, the hearing may
227 be waived, in which case an order granting a conditional
228 release, stating the conditions and duration agreed upon by
229 all the parties and the court, shall be entered in
230 accordance with subsection 13 of this section.

231 12. At a hearing to determine if the committed person
232 should be conditionally released, the court shall consider
233 the following factors in addition to any other relevant
234 evidence:

235 (1) The nature of the offense for which the committed
236 person was committed;

237 (2) The person's behavior while confined in a mental
238 health facility;

239 (3) The elapsed time between the hearing and the last
240 reported unlawful or dangerous act;

241 (4) The nature of the person's proposed release plan;

242 (5) The presence or absence in the community of family
243 or others willing to take responsibility to help the
244 defendant adhere to the conditions of the release; and

245 (6) Whether the person has had previous conditional
246 releases without incident.

247 The burden of persuasion for any person committed to a
248 mental health facility under the provisions of this section
249 upon acquittal on the grounds of mental disease or defect
250 excluding responsibility shall be on the party seeking

251 release to prove by clear and convincing evidence that the
252 person for whom release is sought is not likely to be
253 dangerous to others while on conditional release.

254 13. The court shall enter an order either denying the
255 application for a conditional release or granting
256 conditional release. An order denying the application shall
257 be without prejudice to the filing of another application
258 after the expiration of one year from the denial of the last
259 application.

260 14. No committed person shall be conditionally
261 released until it is determined that the committed person is
262 not likely to be dangerous to others while on conditional
263 release.

264 15. If, in the opinion of the head of a facility where
265 a committed person is being detained, that person can be
266 released without danger to others, that person may be
267 released from the facility for a trial release of up to
268 ninety-six hours under the following procedure:

269 (1) The head of the facility where the person is
270 committed shall notify the prosecutor of the jurisdiction
271 where the committed person was tried and acquitted and the
272 prosecutor of the jurisdiction into which the committed
273 person is to be released at least thirty days before the
274 date of the proposed trial release;

275 (2) The notice shall specify the conditions and
276 duration of the release;

277 (3) If no prosecutor to whom notice is required
278 objects to the trial release, the committed person shall be
279 released according to conditions and duration specified in
280 the notice;

281 (4) If any prosecutor objects to the trial release,
282 the head of the facility may file an application with the

283 court having probate jurisdiction over the facility where
284 the person is detained for a hearing under the procedures
285 set out in subsections 5 and 10 of this section with the
286 following additional requirements:

287 (a) A copy of the application shall also be served
288 upon the prosecutor of the jurisdiction into which the
289 committed person is to be released; and

290 (b) The prosecutor or prosecutors who objected to the
291 trial release shall represent the public safety interest at
292 the hearing; and

293 (5) The release criteria of subsections 12 to 14 of
294 this section shall apply at such a hearing.

295 16. The department shall provide or shall arrange for
296 follow-up care and monitoring for all persons conditionally
297 released under this section and shall make or arrange for
298 reviews and visits with the client at least monthly, or more
299 frequently as set out in the release plan, and whether the
300 client is receiving care, treatment, habilitation or
301 rehabilitation consistent with his needs, condition and
302 public safety. The department shall identify the
303 facilities, programs or specialized services operated or
304 funded by the department which shall provide necessary
305 levels of follow-up care, aftercare, rehabilitation or
306 treatment to the persons in geographical areas where they
307 are released.

308 17. The director of the department of mental health,
309 or the director's designee, may revoke the conditional
310 release or the trial release and request the return of the
311 committed person if such director or coordinator has
312 reasonable cause to believe that the person has violated the
313 conditions of such release. If requested to do so by the
314 director or coordinator, a peace officer of a jurisdiction

315 in which a patient on conditional release is found shall
316 apprehend and return such patient to the facility. No peace
317 officer responsible for apprehending and returning the
318 committed person to the facility upon the request of the
319 director or coordinator shall be civilly liable for
320 apprehending or transporting such patient to the facility so
321 long as such duties were performed in good faith and without
322 negligence. If a person on conditional release is returned
323 to a facility under the provisions of this subsection, a
324 hearing shall be held within ninety-six hours, excluding
325 Saturdays, Sundays and state holidays, to determine whether
326 the person violated the conditions of the release or whether
327 resumption of full-time hospitalization is the least
328 restrictive alternative consistent with the person's needs
329 and public safety. The director of the department of mental
330 health, or the director's designee, shall conduct the
331 hearing. The person shall be given notice at least twenty-
332 four hours in advance of the hearing and shall have the
333 right to have an advocate present.

334 18. At any time during the period of a conditional
335 release or trial release, the court which ordered the
336 release may issue a notice to the released person to appear
337 to answer a charge of a violation of the terms of the
338 release and the court may issue a warrant of arrest for the
339 violation. Such notice shall be personally served upon the
340 released person. The warrant shall authorize the return of
341 the released person to the custody of the court or to the
342 custody of the director of mental health or the director's
343 designee.

344 19. The head of a mental health facility, upon any
345 notice that a committed person has escaped confinement, or
346 left the facility or its grounds without authorization,

347 shall immediately notify the prosecutor and sheriff of the
348 county wherein the committed person is detained of the
349 escape or unauthorized leaving of grounds and the prosecutor
350 and sheriff of the county where the person was tried and
351 acquitted.

352 20. Any person committed to a mental health facility
353 under the provisions of this section upon acquittal on the
354 grounds of mental disease or defect excluding responsibility
355 for a dangerous felony as defined in section 556.061, murder
356 in the first degree pursuant to section 565.020, or sexual
357 assault pursuant to section 566.040 shall not be eligible
358 for conditional or unconditional release under the
359 provisions of this section unless, in addition to the
360 requirements of this section, the court finds that the
361 following criteria are met:

362 (1) Such person is not now and is not likely in the
363 reasonable future to commit another violent crime against
364 another person because of such person's mental illness; and

365 (2) Such person is aware of the nature of the violent
366 crime committed against another person and presently
367 possesses the capacity to appreciate the criminality of the
368 violent crime against another person and the capacity to
369 conform such person's conduct to the requirements of law in
370 the future.

 557.014. 1. As used in this section, the following
2 terms shall mean:

3 (1) "Accusatory instrument", a warrant of arrest,
4 information, or indictment;

5 (2) "Accused", an individual accused of a criminal
6 offense, but not yet charged with a criminal offense;

7 (3) "Defendant", any person charged with a criminal
8 offense;

9 (4) "Deferred prosecution", the suspension of a
10 criminal case for a specified period upon the request of
11 both the prosecuting attorney and the accused or the
12 defendant;

13 (5) "Diversionary screening", the discretionary power
14 of the prosecuting attorney to suspend all formal
15 prosecutorial proceedings against a person who has become
16 involved in the criminal justice system as an accused or
17 defendant;

18 (6) "Prosecuting attorney", includes the prosecuting
19 attorney, **district attorney**, or circuit attorney for each
20 county of the state and the City of St. Louis;

21 (7) "Prosecution diversion", the imposition of
22 conditions of behavior and conduct by the prosecuting
23 attorney upon an accused or defendant for a specified period
24 of time as an alternative to proceeding to adjudication on a
25 complaint, information, or indictment.

26 2. Each prosecuting attorney in the state of Missouri
27 shall have the authority to, upon agreement with an accused
28 or a defendant, divert a criminal case to a prosecution
29 diversion program for a period of six months to two years,
30 thus allowing for any statute of limitations to be tolled
31 for that time alone. The period of diversion may be
32 extended by the prosecuting attorney as a disciplinary
33 measure or to allow sufficient time for completion of any
34 portion of the prosecution diversion including restitution;
35 provided, however, that no extension of such diversion shall
36 be for a period of more than two years.

37 3. The prosecuting attorney may divert cases, under
38 this program, out of the criminal justice system where the
39 prosecuting attorney determines that the advantages of

40 utilizing prosecution diversion outweigh the advantages of
41 immediate court activity.

42 4. Prior to or upon the issuance of an accusatory
43 instrument, with consent of the accused or defendant, other
44 than for an offense enumerated in this section, the
45 prosecuting attorney may forego continued prosecution upon
46 the parties' agreement to a prosecution diversion plan. The
47 prosecution diversion plan shall be for a specified period
48 and be in writing. The prosecuting attorney has the sole
49 authority to develop diversionary program requirements, but
50 minimum requirements are as follows:

51 (1) The alleged crime is nonviolent, nonsexual, and
52 does not involve a child victim or possession of an unlawful
53 weapon;

54 (2) The accused or defendant must submit to all
55 program requirements;

56 (3) Any newly discovered criminal behavior while in a
57 prosecution diversion program will immediately forfeit his
58 or her right to continued participation in said program at
59 the sole discretion of the prosecuting attorney;

60 (4) The alleged crime does not also constitute a
61 violation of a current condition of probation or parole;

62 (5) The alleged crime is not a traffic offense in
63 which the accused or defendant was a holder of a commercial
64 driver license or was operating a commercial motor vehicle
65 at the time of the offense; and

66 (6) Any other criteria established by the prosecuting
67 attorney.

68 5. During any period of prosecution diversion, the
69 prosecuting attorney may impose conditions upon the behavior
70 and conduct of the accused or defendant that assures the
71 safety and well-being of the community as well as that of

72 the accused or defendant. The conditions imposed by the
73 prosecuting attorney shall include, but are not limited to,
74 requiring the accused or defendant to remain free of any
75 criminal behavior during the entire period of prosecution
76 diversion.

77 6. The responsibility and authority to screen or
78 divert specific cases, or to refuse to screen or divert
79 specific cases, shall rest within the sole judgment and
80 discretion of the prosecuting attorney as part of their
81 official duties as prosecuting attorney. The decision of
82 the prosecuting attorney regarding diversion shall not be
83 subject to appeal nor be raised as a defense in any
84 prosecution of a criminal case involving the accused or
85 defendant.

86 7. Any person participating in the program:

87 (1) Shall have the right to insist on criminal
88 prosecution for the offense for which he or she is accused
89 at any time; and

90 (2) May have counsel of the person's choosing present
91 during all phases of the prosecution diversion proceedings,
92 but counsel is not required and no right to appointment of
93 counsel is hereby created.

94 8. In conducting the program, the prosecuting attorney
95 may require at any point the reinitiation of criminal
96 proceedings when, in his or her judgment, such is warranted.

97 9. Any county, city, person, organization, or agency,
98 or employee or agent thereof, involved with the supervision
99 of activities, programs, or community service that are a
100 part of a prosecution diversion program, shall be immune
101 from any suit by the person performing the work under the
102 deferred prosecution agreement, or any person deriving a
103 cause of action from such person, except for an intentional

104 tort or gross negligence. Persons performing work or
105 community service pursuant to a deferred prosecution
106 agreement as described shall not be deemed to be engaged in
107 employment within the meaning of the provisions of chapter
108 288. A person performing work or community service pursuant
109 to a deferred prosecution agreement shall not be deemed an
110 employee within the meaning of the provisions of chapter 287.

111 10. Any person supervising or employing an accused or
112 defendant under the program shall report to the prosecuting
113 attorney any violation of the terms of the prosecution
114 diversion program.

115 11. After completion of the program and any conditions
116 imposed upon the accused or defendant, to the satisfaction
117 of the prosecuting attorney, the individual shall be
118 entitled to a dismissal or alternative disposition of
119 charges against them. Such disposition may, in the
120 discretion of the prosecuting attorney, be without prejudice
121 to the state of Missouri for the reinstatement of criminal
122 proceedings, within the statute of limitations, upon any
123 subsequent criminal activity on the part of the accused.
124 Any other provision of law notwithstanding, such individual
125 shall be required to pay any associated costs prior to
126 dismissal of pending charges.

610.140. 1. For the purposes of this section, the
2 following terms mean:

3 (1) "Court", any Missouri municipal, associate
4 circuit, or circuit court;

5 (2) "Crime", any offense, violation, or infraction of
6 Missouri state, county, municipal, or administrative law;

7 (3) "Prosecutor" or "prosecuting attorney", the
8 prosecuting attorney, **district attorney**, circuit attorney,
9 or municipal prosecuting attorney.

10 2. (1) Notwithstanding any other provision of law and
11 subject to the provisions of this section, any person may
12 apply to any court in which such person was charged or found
13 guilty of any crimes for an order to expunge records of such
14 arrest, plea, trial, or conviction.

15 (2) Subject to the limitations of subsection 13 of
16 this section, a person may apply to have one or more crimes
17 expunged if each such crime occurred within the state of
18 Missouri and was prosecuted under the jurisdiction of a
19 Missouri court, so long as such person lists all the crimes
20 he or she is seeking to have expunged in the petition and so
21 long as all such crimes are not excluded under subsection 3
22 of this section.

23 (3) If the crimes sought to be expunged were committed
24 as part of the same course of criminal conduct, the person
25 may include all such related crimes in the petition,
26 regardless of the limits of subsection 13 of this section,
27 and those related crimes shall only count as the highest
28 level for the purpose of determining current and future
29 eligibility for expungement.

30 3. The following crimes shall not be eligible for
31 expungement under this section:

32 (1) Any class A felony offense;

33 (2) Any dangerous felony as that term is defined in
34 section 556.061;

35 (3) Any offense that requires registration as a sex
36 offender;

37 (4) Any felony offense where death is an element of
38 the offense;

39 (5) Any felony offense of assault; misdemeanor or
40 felony offense of domestic assault; or felony offense of
41 kidnapping;

42 (6) Any offense listed, previously listed, or is a
43 successor to an offense in chapter 566 or section 105.454,
44 105.478, 115.631, 130.028, 188.030, 188.080, 191.677,
45 194.425, 217.385, 334.245, 375.991, 389.653, 455.085,
46 455.538, 557.035, 565.120, 565.130, 565.156, 566.093,
47 566.111, 566.115, 566.116, 568.020, 568.030, 568.032,
48 568.045, 568.060, 568.065, 568.175, 569.040, 569.050,
49 569.055, 569.060, 569.065, 569.067, 569.072, 569.160,
50 570.025, 570.090, 570.180, 570.223, 570.224, 570.310,
51 571.020, 571.060, 571.063, 571.070, 571.072, 571.150,
52 573.200, 573.205, 574.070, 574.105, 574.115, 574.120,
53 574.130, 574.140, 575.040, 575.095, 575.153, 575.155,
54 575.157, 575.159, 575.195, 575.200, 575.210, 575.220,
55 575.230, 575.240, 575.353, 577.078, 577.703, 577.706, or
56 632.520;

57 (7) Any offense eligible for expungement under section
58 610.130;

59 (8) Any intoxication-related traffic or boating
60 offense as defined in section 577.001, or any offense of
61 operating an aircraft with an excessive blood alcohol
62 content or while in an intoxicated condition;

63 (9) Any ordinance violation that is the substantial
64 equivalent of any offense that is not eligible for
65 expungement under this section;

66 (10) Any violation of any state law or county or
67 municipal ordinance regulating the operation of motor
68 vehicles when committed by an individual who has been issued
69 a commercial driver's license or is required to possess a
70 commercial driver's license issued by this state or any
71 other state; and

72 (11) Any offense of section 571.030, except any
73 offense under subdivision (1) of subsection 1 of section

74 571.030 where the person was convicted or found guilty prior
75 to January 1, 2017, or any offense under subdivision (4) of
76 subsection 1 of section 571.030.

77 4. The petition shall name as defendants all law
78 enforcement agencies, courts, prosecuting or circuit
79 attorneys, central state repositories of criminal records,
80 or others who the petitioner has reason to believe may
81 possess the records subject to expungement for each of the
82 crimes listed in the petition. The court's order of
83 expungement shall not affect any person or entity not named
84 as a defendant in the action.

85 5. The petition shall include the following
86 information:

87 (1) The petitioner's:

88 (a) Full name;

89 (b) Sex;

90 (c) Race;

91 (d) Driver's license number, if applicable; and

92 (e) Current address;

93 (2) Each crime for which the petitioner is requesting
94 expungement;

95 (3) The approximate date the petitioner was charged
96 for each crime; and

97 (4) The name of the county where the petitioner was
98 charged for each crime and if any of the crimes occurred in
99 a municipality, the name of the municipality for each crime;
100 and

101 (5) The case number and name of the court for each
102 crime.

103 6. The clerk of the court shall give notice of the
104 filing of the petition to the office of the prosecuting
105 attorney that prosecuted the crimes listed in the petition.

106 If the prosecuting attorney objects to the petition for
107 expungement, he or she shall do so in writing within thirty
108 days after receipt of service. Unless otherwise agreed upon
109 by the parties, the court shall hold a hearing within sixty
110 days after any written objection is filed, giving reasonable
111 notice of the hearing to the petitioner. If no objection
112 has been filed within thirty days after receipt of service,
113 the court may set a hearing on the matter and shall give
114 reasonable notice of the hearing to each entity named in the
115 petition. At any hearing, the court may accept evidence and
116 hear testimony on, and may consider, the following criteria
117 for each of the crimes listed in the petition for
118 expungement:

119 (1) At the time the petition is filed, it has been at
120 least three years if the offense is a felony, or at least
121 one year if the offense is a misdemeanor, municipal
122 violation, or infraction, from the date the petitioner
123 completed any authorized disposition imposed under section
124 557.011 for each crime listed in the petition;

125 (2) At the time the petition is filed, the person has
126 not been found guilty of any other misdemeanor or felony,
127 not including violations of the traffic regulations provided
128 under chapters 301, 302, 303, 304, and 307, during the time
129 period specified for the underlying crime in subdivision (1)
130 of this subsection;

131 (3) The person has satisfied all obligations relating
132 to any such disposition, including the payment of any fines
133 or restitution;

134 (4) The person does not have charges pending;

135 (5) The petitioner's habits and conduct demonstrate
136 that the petitioner is not a threat to the public safety of
137 the state; and

138 (6) The expungement is consistent with the public
139 welfare and the interests of justice warrant the expungement.

140 A pleading by the petitioner that such petitioner meets the
141 requirements of subdivisions (5) and (6) of this subsection
142 shall create a rebuttable presumption that the expungement
143 is warranted so long as the criteria contained in
144 subdivisions (1) to (4) of this subsection are otherwise
145 satisfied. The burden shall shift to the prosecuting
146 attorney or circuit attorney to rebut the presumption. A
147 victim of a crime listed in the petition shall have an
148 opportunity to be heard at any hearing held under this
149 section. A court may find that the continuing impact of the
150 offense upon the victim rebuts the presumption that
151 expungement is warranted.

152 7. A petition to expunge records related to an arrest
153 for an eligible crime may be made in accordance with the
154 provisions of this section to a court of competent
155 jurisdiction in the county where the petitioner was arrested
156 no earlier than eighteen months from the date of arrest;
157 provided that, during such time, the petitioner has not been
158 charged and the petitioner has not been found guilty of any
159 misdemeanor or felony offense.

160 8. If the court determines that such person meets all
161 the criteria set forth in subsection 6 of this section for
162 each of the crimes listed in the petition for expungement,
163 the court shall enter an order of expungement. In all cases
164 under this section, the court shall issue an order of
165 expungement or dismissal within six months of the filing of
166 the petition. A copy of the order of expungement shall be
167 provided to the petitioner and each entity possessing
168 records subject to the order, and, upon receipt of the

169 order, each entity shall close any record in its possession
170 relating to any crime listed in the petition, in the manner
171 established by section 610.120. The records and files
172 maintained in any administrative or court proceeding in a
173 municipal, associate, or circuit court for any crime ordered
174 expunged under this section shall be confidential and only
175 available to the parties or by order of the court for good
176 cause shown. The central repository shall request the
177 Federal Bureau of Investigation to expunge the records from
178 its files.

179 9. The order shall not limit any of the petitioner's
180 rights that were restricted as a collateral consequence of
181 such person's criminal record, and such rights shall be
182 restored upon issuance of the order of expungement. Except
183 as otherwise provided under this section, the effect of such
184 order shall be to fully restore the civil rights of such
185 person to the status he or she occupied prior to such
186 arrests, pleas, trials, or convictions as if such events had
187 never taken place. This includes fully restoring the civil
188 rights of a person to the right to vote, the right to hold
189 public office, and to serve as a juror. For purposes of 18
190 U.S.C. Section 921(a)(33)(B)(ii), an order of expungement
191 granted pursuant to this section shall be considered a
192 complete removal of all effects of the expunged conviction.
193 Except as otherwise provided under this section, the effect
194 of such order shall be to restore such person to the status
195 he or she occupied prior to such arrests, pleas, trials, or
196 convictions as if such events had never taken place. No
197 person as to whom such order has been entered shall be held
198 thereafter under any provision of law to be guilty of
199 perjury or otherwise giving a false statement by reason of
200 his or her failure to recite or acknowledge such arrests,

201 pleas, trials, convictions, or expungement in response to an
202 inquiry made of him or her and no such inquiry shall be made
203 for information relating to an expungement, except the
204 petitioner shall disclose the expunged crime to any court
205 when asked or upon being charged with any subsequent crime.
206 The expunged crime may be considered a prior offense in
207 determining a sentence to be imposed for any subsequent
208 offense that the person is found guilty of committing.

209 10. Notwithstanding the provisions of subsection 9 of
210 this section to the contrary, a person granted an
211 expungement shall disclose any expunged crime when the
212 disclosure of such information is necessary to complete any
213 application for:

214 (1) A license, certificate, or permit issued by this
215 state to practice such individual's profession;

216 (2) Any license issued under chapter 313 or permit
217 issued under chapter 571;

218 (3) Paid or unpaid employment with an entity licensed
219 under chapter 313, any state-operated lottery, or any
220 emergency services provider, including any law enforcement
221 agency;

222 (4) Employment with any federally insured bank or
223 savings institution or credit union or an affiliate of such
224 institution or credit union for the purposes of compliance
225 with 12 U.S.C. Section 1829 and 12 U.S.C. Section 1785;

226 (5) Employment with any entity engaged in the business
227 of insurance or any insurer for the purpose of complying
228 with 18 U.S.C. Section 1033, 18 U.S.C. Section 1034, or
229 other similar law which requires an employer engaged in the
230 business of insurance to exclude applicants with certain
231 criminal convictions from employment; or

232 (6) Employment with any employer that is required to
233 exclude applicants with certain criminal convictions from
234 employment due to federal or state law, including
235 corresponding rules and regulations.

236 An employer shall notify an applicant of the requirements
237 under subdivisions (4) to (6) of this subsection.

238 Notwithstanding any provision of law to the contrary, an
239 expunged crime shall not be grounds for automatic
240 disqualification of an applicant, but may be a factor for
241 denying employment, or a professional license, certificate,
242 or permit; except that, a crime expunged under the
243 provisions of this section may be grounds for automatic
244 disqualification if the application is for employment under
245 subdivisions (4) to (6) of this subsection.

246 11. A person who has been granted an expungement of
247 records pertaining to a crime may answer "no" to an
248 employer's inquiry into whether the person has ever been
249 arrested, charged, or convicted of a crime if, after the
250 granting of the expungement, the person has no public record
251 of a crime. The person, however, shall answer such an
252 inquiry affirmatively and disclose his or her criminal
253 convictions, including any offense expunged under this
254 section or similar law, if the employer is required to
255 exclude applicants with certain criminal convictions from
256 employment due to federal or state law, including
257 corresponding rules and regulations.

258 12. If the court determines that the petitioner has
259 not met the criteria for any of the crimes listed in the
260 petition for expungement or the petitioner has knowingly
261 provided false information in the petition, the court shall
262 enter an order dismissing the petition. Any person whose

263 petition for expungement has been dismissed by the court for
264 failure to meet the criteria set forth in subsection 6 of
265 this section may not refile another petition until a year
266 has passed since the date of filing for the previous
267 petition.

268 13. A person may be granted more than one expungement
269 under this section provided that during his or her lifetime,
270 the total number of crimes for which orders of expungement
271 are granted to the person shall not exceed the following
272 limits:

273 (1) Not more than three misdemeanor offenses or
274 ordinance violations that have an authorized term of
275 imprisonment; and

276 (2) Not more than two felony offenses.

277 A person may be granted expungement under this section for
278 any number of infractions. Nothing in this section shall be
279 construed to limit or impair in any way the subsequent use
280 of any record expunged under this section of any arrests or
281 findings of guilt by a law enforcement agency, criminal
282 justice agency, prosecuting attorney or circuit attorney,
283 including its use as a prior crime.

284 14. The court shall make available a form for pro se
285 petitioners seeking expungement, which shall include the
286 following statement: "I declare under penalty of perjury
287 that the statements made herein are true and correct to the
288 best of my knowledge, information, and belief."

289 15. Nothing in this section shall be construed to
290 limit or restrict the availability of expungement to any
291 person under any other law.

✓