

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 2064**  
**AND**  
**HOUSE COMMITTEE SUBSTITUTE NO. 2**  
**FOR**  
**HOUSE BILL NO. 1886**

102ND GENERAL ASSEMBLY

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4623S.08C

KRISTINA MARTIN, Secretary

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**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.

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*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,  
2 287.610, 287.615, 287.812, 287.835, 347.143, 435.014, 452.355,  
3 455.010, 455.035, 455.513, 456.950, 469.401, 469.402, 469.403,  
4 469.405, 469.409, 469.411, 469.413, 469.415, 469.417, 469.419,  
5 469.421, 469.423, 469.425, 469.427, 469.429, 469.431, 469.432,  
6 469.433, 469.435, 469.437, 469.439, 469.441, 469.443, 469.445,

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

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7 469.447, 469.449, 469.451, 469.453, 469.455, 469.457, 469.459,  
8 469.461, 469.463, 469.465, 469.467, 477.650, 478.001, 487.110,  
9 488.040, 488.426, 488.2300, 491.075, 492.304, 494.455, 509.520,  
10 537.528, 559.125, 566.151, 567.030, 595.045, and 621.045, RSMo,  
11 are repealed and one hundred thirty new sections enacted in  
12 lieu thereof, to be known as sections 193.265, 214.330, 287.200,  
13 287.470, 287.610, 287.615, 287.812, 287.835, 347.143, 435.300,  
14 435.303, 435.306, 435.309, 435.312, 452.355, 453.700, 453.702,  
15 453.704, 453.706, 453.708, 453.710, 453.712, 453.714, 453.716,  
16 453.718, 453.720, 453.722, 453.724, 453.726, 453.728, 453.730,  
17 453.732, 453.734, 453.736, 453.738, 453.740, 453.742, 454.1050,  
18 455.010, 455.035, 455.513, 456.950, 469.399, 469.401, 469.402,  
19 469.403, 469.404, 469.405, 469.413, 469.415, 469.417, 469.419,  
20 469.421, 469.423, 469.425, 469.427, 469.429, 469.431, 469.432,  
21 469.433, 469.435, 469.437, 469.439, 469.441, 469.443, 469.445,  
22 469.446, 469.447, 469.449, 469.451, 469.453, 469.455, 469.456,  
23 469.457, 469.459, 469.462, 469.463, 469.464, 469.465, 469.467,  
24 469.471, 469.473, 469.475, 469.477, 469.479, 469.481, 469.483,  
25 469.485, 469.487, 474.540, 474.542, 474.544, 474.546, 474.548,  
26 474.550, 474.552, 474.554, 474.556, 474.558, 474.560, 474.562,  
27 474.564, 474.600, 475.063, 476.1025, 477.650, 478.001, 487.110,  
28 488.040, 488.426, 488.2300, 491.075, 492.304, 494.455, 509.520,  
29 510.500, 510.503, 510.506, 510.509, 510.512, 510.515, 510.518,  
30 510.521, 534.157, 537.529, 559.125, 566.151, 567.030, 595.045,  
31 and 621.045, to read as follows:

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

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8 be required or collected for a certification of birth,  
9 death, or marriage if the request for certification is made  
10 by the children's division, the division of youth services,  
11 a guardian ad litem, or a juvenile officer on behalf of a  
12 child or person under twenty-one years of age who has come  
13 under the jurisdiction of the juvenile court under section  
14 211.031. All fees collected under this subsection shall be  
15 deposited to the state department of revenue. Beginning  
16 August 28, 2004, for each vital records fee collected, the  
17 director of revenue shall credit four dollars to the general  
18 revenue fund, five dollars to the children's trust fund, one  
19 dollar shall be credited to the endowed care cemetery audit  
20 fund, one dollar for each certification or copy of death  
21 records to the Missouri state coroners' training fund  
22 established in section 58.208, and three dollars for the  
23 first copy of death records and five dollars for birth,  
24 marriage, divorce, and fetal death records shall be credited  
25 to the Missouri public health services fund established in  
26 section 192.900. Money in the endowed care cemetery audit  
27 fund shall be available by appropriation to the division of  
28 professional registration to pay its expenses in  
29 administering sections 214.270 to 214.410. All interest  
30 earned on money deposited in the endowed care cemetery audit  
31 fund shall be credited to the endowed care cemetery fund.  
32 Notwithstanding the provisions of section 33.080 to the  
33 contrary, money placed in the endowed care cemetery audit  
34 fund shall not be transferred and placed to the credit of  
35 general revenue until the amount in the fund at the end of  
36 the biennium exceeds three times the amount of the  
37 appropriation from the endowed care cemetery audit fund for  
38 the preceding fiscal year. The money deposited in the  
39 public health services fund under this section shall be

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40 deposited in a separate account in the fund, and moneys in  
41 such account, upon appropriation, shall be used to automate  
42 and improve the state vital records system, and develop and  
43 maintain an electronic birth and death registration system.  
44 For any search of the files and records, when no record is  
45 found, the state shall be entitled to a fee equal to the  
46 amount for a certification of a vital record for a five-year  
47 search to be paid by the applicant. For the processing of  
48 each legitimation, adoption, court order or recording after  
49 the registrant's twelfth birthday, the state shall be  
50 entitled to a fee equal to the amount for a certification of  
51 a vital record. Except whenever a certified copy or copies  
52 of a vital record is required to perfect any claim of any  
53 person on relief, or any dependent of any person who was on  
54 relief for any claim upon the government of the state or  
55 United States, the state registrar shall, upon request,  
56 furnish a certified copy or so many certified copies as are  
57 necessary, without any fee or compensation therefor.

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

69 3. For the issuance of a certification or copy of a  
70 birth, marriage, divorce, or fetal death record, the  
71 applicant shall pay a fee of fifteen dollars; except that,

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72 in any county with a charter form of government and with  
73 more than six hundred thousand but fewer than seven hundred  
74 thousand inhabitants, a donation of one dollar may be  
75 collected by the local registrar over and above any fees  
76 required by law when a certification or copy of any marriage  
77 license or birth certificate is provided, with such  
78 donations collected to be forwarded monthly by the local  
79 registrar to the county treasurer of such county and the  
80 donations so forwarded to be deposited by the county  
81 treasurer into the housing resource commission fund to  
82 assist homeless families and provide financial assistance to  
83 organizations addressing homelessness in such county. The  
84 local registrar shall include a check-off box on the  
85 application form for such copies. All fees collected under  
86 this subsection, other than the donations collected in any  
87 county with a charter form of government and with more than  
88 six hundred thousand but fewer than seven hundred thousand  
89 inhabitants for marriage licenses and birth certificates,  
90 shall be deposited to the official city or county health  
91 agency.

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

97 5. No fee under this section shall be required or  
98 collected from a parent or guardian of a homeless child or  
99 homeless youth, as defined in subsection 1 of section  
100 167.020, or an unaccompanied youth, as defined in 42 U.S.C.  
101 Section 11434a(6), for the issuance of a certification, or  
102 copy of such certification, of birth of such child or  
103 youth. An unaccompanied youth shall be eligible to receive

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104 a certification or copy of his or her own birth record  
105 without the consent or signature of his or her parent or  
106 guardian; provided, that only one certificate under this  
107 provision shall be provided without cost to the  
108 unaccompanied or homeless youth. For the issuance of any  
109 additional certificates, the statutory fee shall be paid.

110 6. (1) Notwithstanding any provision of law to the  
111 contrary, no fee shall be required or collected for a  
112 certification of birth if the request is made by a victim of  
113 domestic violence or abuse, as those terms are defined in  
114 section 455.010, and the victim provides documentation  
115 signed by an employee, agent, or volunteer of a victim  
116 service provider, an attorney, or a health care or mental  
117 health professional, from whom the victim has sought  
118 assistance relating to the domestic violence or abuse. Such  
119 documentation shall state that, under penalty of perjury,  
120 the employee, agent, or volunteer of a victim service  
121 provider, the attorney, or the health care or mental health  
122 professional believes the victim has been involved in an  
123 incident of domestic violence or abuse.

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

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

214.330. 1. (1) The endowed care trust fund required  
2 by sections 214.270 to 214.410 shall be permanently set  
3 aside in trust or in accordance with the provisions of  
4 subsection 2 of this section. The trustee of the endowed  
5 care trust shall be a state or federally chartered financial  
6 institution authorized to exercise trust powers in

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7 Missouri. The contact information for a trust officer or  
8 duly appointed representative of the trustee with knowledge  
9 and access to the trust fund accounting and trust fund  
10 records must be disclosed to the office or its duly  
11 authorized representative upon request.

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

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

26 2. An endowed care trust fund shall be administered in  
27 accordance with Missouri law governing trusts, including but  
28 not limited to the applicable provisions of chapters 456 and  
29 469, except as specifically provided in this subsection or  
30 where the provisions of sections 214.270 to 214.410 provide  
31 differently, provided that a cemetery operator shall not in  
32 any circumstances be authorized to restrict, enlarge,  
33 change, or modify the requirements of this section or the  
34 provisions of chapters 456 and 469 by agreement or otherwise.

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

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

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

45           (4) All endowed care trusts shall be irrevocable.

46           (5) No trustee shall have the power to terminate an  
47 endowed care trust fund under the provisions of section  
48 456.4-414.

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

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

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

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

67           4. In addition to any other duty, obligation, or  
68 requirement imposed by sections 214.270 to 214.410 or the  
69 endowed care trust agreement, the trustee's duties shall be  
70 the maintenance of records related to the trust and the



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71 accounting for and investment of moneys deposited by the  
72 operator to the endowed care trust fund.

73 (1) For the purposes of sections 214.270 to 214.410,  
74 the trustee shall not be deemed responsible for the care,  
75 the maintenance, or the operation of the cemetery, or for  
76 any other matter relating to the cemetery, or the proper  
77 expenditure of funds distributed by the trustee to the  
78 cemetery operator, including, but not limited to, compliance  
79 with environmental laws and regulations.

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

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

97 (1) The interest from the escrow account may be  
98 distributed to the cemetery operator at least in annual or  
99 semiannual installments, but not later than six months  
100 following the calendar year. Any interest not distributed  
101 within six months following the end of the calendar year

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102 shall be added to and held as part of the principal of the  
103 account.

104 (2) The cemetery operator shall have the duty and  
105 responsibility to apply the interest to provide care and  
106 maintenance only for that part of the cemetery in which  
107 burial space shall have been sold and with respect to which  
108 sales the escrow account shall have been established and not  
109 for any other purpose. The principal of such funds shall be  
110 kept intact. The cemetery operator's duties shall be the  
111 maintenance of records and the accounting for an investment  
112 of moneys deposited by the operator to the escrow account.  
113 For purposes of sections 214.270 to 214.410, the  
114 administrator of the office of endowed care cemeteries shall  
115 not be deemed to be responsible for the care, maintenance,  
116 or operation of the cemetery. With respect to cemetery  
117 property maintained by cemetery care funds, the cemetery  
118 operator shall be responsible for the performance of the  
119 care and maintenance of the cemetery property owned by the  
120 cemetery operator.

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

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

128 7. Excluding funds held in an escrow account, all  
129 endowed care trust funds shall be administered in accordance  
130 with an endowed care trust fund agreement, which shall be  
131 submitted to the office by the cemetery operator for review  
132 and approval. The endowed care cemetery shall be notified  
133 in writing by the office of endowed care cemeteries

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134 regarding the approval or disapproval of the endowed care  
135 trust fund agreement and regarding any changes required to  
136 be made for compliance with sections 214.270 to 214.410 and  
137 the rules and regulations promulgated thereunder.

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

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

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

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165           11. By accepting the trusteeship of an endowed care  
166 trust or accepting funds as an escrow agent pursuant to  
167 sections 214.270 to 214.410, the trustee or escrow agent  
168 submits personally to the jurisdiction of the courts of this  
169 state and the office of endowed care cemeteries regarding  
170 the administration of the trust or escrow account. A  
171 trustee or escrow agent shall consent in writing to the  
172 jurisdiction of the state of Missouri and the office in  
173 regards to the trusteeship or the operation of the escrow  
174 account and to the appointment of the office of secretary of  
175 state as its agent for service of process regarding any  
176 administrative or legal actions relating to the trust or the  
177 escrow account, if it has no designated agent for service of  
178 process located in this state. Such consent shall be filed  
179 with the office prior to accepting funds pursuant to  
180 sections 214.270 to 214.410 as trustee or as an escrow agent  
181 on a form provided by the office by rule.

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

12           (1) For all injuries occurring on or after September  
13 28, 1983, but before September 28, 1986, the weekly  
14 compensation shall be an amount equal to sixty-six and two-  
15 thirds percent of the injured employee's average weekly

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16 earnings during the year immediately preceding the injury,  
17 as of the date of the injury; provided that the weekly  
18 compensation paid under this subdivision shall not exceed an  
19 amount equal to seventy percent of the state average weekly  
20 wage, as such wage is determined by the division of  
21 employment security, as of the July first immediately  
22 preceding the date of injury;

23 (2) For all injuries occurring on or after September  
24 28, 1986, but before August 28, 1990, the weekly  
25 compensation shall be an amount equal to sixty-six and two-  
26 thirds percent of the injured employee's average weekly  
27 earnings during the year immediately preceding the injury,  
28 as of the date of the injury; provided that the weekly  
29 compensation paid under this subdivision shall not exceed an  
30 amount equal to seventy-five percent of the state average  
31 weekly wage, as such wage is determined by the division of  
32 employment security, as of the July first immediately  
33 preceding the date of injury;

34 (3) For all injuries occurring on or after August 28,  
35 1990, but before August 28, 1991, the weekly compensation  
36 shall be an amount equal to sixty-six and two-thirds percent  
37 of the injured employee's average weekly earnings as of the  
38 date of the injury; provided that the weekly compensation  
39 paid under this subdivision shall not exceed an amount equal  
40 to one hundred percent of the state average weekly wage;

41 (4) For all injuries occurring on or after August 28,  
42 1991, the weekly compensation shall be an amount equal to  
43 sixty-six and two-thirds percent of the injured employee's  
44 average weekly earnings as of the date of the injury;  
45 provided that the weekly compensation paid under this  
46 subdivision shall not exceed an amount equal to one hundred  
47 five percent of the state average weekly wage;

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48           (5) For all injuries occurring on or after September  
49 28, 1981, the weekly compensation shall in no event be less  
50 than forty dollars per week.

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

61           3. **(1)** All claims for permanent total disability  
62 shall be determined in accordance with the facts. [When an  
63 injured employee receives an award for permanent total  
64 disability but by the use of glasses, prosthetic appliances,  
65 or physical rehabilitation the employee is restored to his  
66 or her regular work or its equivalent, the life payment  
67 mentioned in subsection 1 of this section shall be suspended  
68 during the time in which the employee is restored to his or  
69 her regular work or its equivalent.] The employer and the  
70 division shall keep the file open in the case during the  
71 lifetime of any injured employee who has received an award  
72 of permanent total disability.

73           **(2) When an injured employee receives an award for**  
74 **permanent total disability but by the use of glasses,**  
75 **prosthetic appliances, or physical rehabilitation the**  
76 **employee is restored to his or her regular work or its**  
77 **equivalent, the life payment mentioned in subsection 1 of**  
78 **this section shall be suspended during the time in which the**  
79 **employee is restored to his or her regular work or its**

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80 **equivalent.** In any case where the life payment is suspended  
81 under this [subsection] **subdivision**, the commission may at  
82 reasonable times review the case and either the employee or  
83 the employer may request an informal conference with the  
84 commission relative to the resumption of the employee's  
85 weekly life payment in the case.

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

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

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

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

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

107 (a) For employers that have elected to accept  
108 mesothelioma liability under this subsection, an additional  
109 amount of three hundred percent of the state's average  
110 weekly wage for two hundred twelve weeks shall be paid by  
111 the employer or group of employers such employer is a member

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112 of. Employers that elect to accept mesothelioma liability  
113 under this subsection may do so by either insuring their  
114 liability, by qualifying as a self-insurer, or by becoming a  
115 member of a group insurance pool. A group of employers may  
116 enter into an agreement to pool their liabilities under this  
117 subsection. If such group is joined, individual members  
118 shall not be required to qualify as individual self-  
119 insurers. Such group shall comply with section 287.223. In  
120 order for an employer to make such an election, the employer  
121 shall provide the department with notice of such an election  
122 in a manner established by the department. The provisions  
123 of this paragraph shall expire on December 31, 2038; or

124 (b) For employers who reject mesothelioma under this  
125 subsection, then the exclusive remedy provisions under  
126 section 287.120 shall not apply to such liability. The  
127 provisions of this paragraph shall expire on December 31,  
128 2038; and

129 (4) The provisions of subdivision (2) and paragraph  
130 (a) of subdivision (3) of this subsection shall not be  
131 subject to suspension of benefits as provided in subsection  
132 3 of this section; and

133 (5) Notwithstanding any other provision of this  
134 chapter to the contrary, should the employee die before the  
135 additional benefits provided for in subdivision (2) and  
136 paragraph (a) of subdivision (3) of this subsection are  
137 paid, the additional benefits are payable to the employee's  
138 spouse or children, natural or adopted, legitimate or  
139 illegitimate, in addition to benefits provided under section  
140 287.240. If there is no surviving spouse or children and  
141 the employee has received less than the additional benefits  
142 provided for in subdivision (2) and paragraph (a) of  
143 subdivision (3) of this subsection the remainder of such



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144 additional benefits shall be paid as a single payment to the  
145 estate of the employee;

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

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

287.470. **1.** Upon its own motion or upon the  
2 application of any party in interest on the ground of a  
3 change in condition, the commission may at any time upon a  
4 rehearing after due notice to the parties interested review  
5 any award and on such review may make an award ending,  
6 diminishing or increasing the compensation previously  
7 awarded, subject to the maximum or minimum provided in this  
8 chapter, and shall immediately send to the parties and the  
9 employer's insurer a copy of the award. No such review  
10 shall affect such award as regards any moneys paid.

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

287.610. **1.** After August 28, 2005, the division may  
2 appoint additional administrative law judges for a maximum  
3 of forty authorized administrative law judges.  
4 Appropriations shall be based upon necessity, measured by  
5 the requirements and needs of each division office.

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6 Administrative law judges shall be duly licensed lawyers  
7 under the laws of this state. Administrative law judges  
8 shall not practice law or do law business and shall devote  
9 their whole time to the duties of their office. The  
10 director of the division of workers' compensation shall  
11 publish and maintain on the division's website the  
12 appointment dates or initial dates of service for all  
13 administrative law judges.

14 2. [The thirteen administrative law judges with the  
15 most years of service shall be subject to a retention vote  
16 on August 28, 2008. The next thirteen administrative law  
17 judges with the most years of service in descending order  
18 shall be subject to a retention vote on August 28, 2012.  
19 Administrative law judges appointed and not previously  
20 referenced in this subsection shall be subject to a  
21 retention vote on August 28, 2016. Subsequent retention  
22 votes shall be held every twelve years. Any administrative  
23 law judge who has received two or more votes of no  
24 confidence under performance audits by the committee shall  
25 not receive a vote of retention.

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

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

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37           5.1 The administrative law judges appointed by the  
38 division shall only have jurisdiction to hear and determine  
39 claims upon original hearing and shall have no jurisdiction  
40 upon any review hearing, either in the way of an appeal from  
41 an original hearing or by way of reopening any prior award,  
42 except to correct a clerical error in an award or settlement  
43 if the correction is made by the administrative law judge  
44 within twenty days of the original award or settlement. The  
45 labor and industrial relations commission may remand any  
46 decision of an administrative law judge for a more complete  
47 finding of facts. The commission may also correct a  
48 clerical error in awards or settlements within thirty days  
49 of its final award. With respect to original hearings, the  
50 administrative law judges shall have such jurisdiction and  
51 powers as are vested in the division of workers'  
52 compensation under other sections of this chapter, and  
53 wherever in this chapter the word "commission",  
54 "commissioners" or "division" is used in respect to any  
55 original hearing, those terms shall mean the administrative  
56 law judges appointed under this section. When a hearing is  
57 necessary upon any claim, the division shall assign an  
58 administrative law judge to such hearing. Any  
59 administrative law judge shall have power to approve  
60 contracts of settlement, as provided by section 287.390,  
61 between the parties to any compensation claim or dispute  
62 under this chapter pending before the division of workers'  
63 compensation. Any award by an administrative law judge upon  
64 an original hearing shall have the same force and effect,  
65 shall be enforceable in the same manner as provided  
66 elsewhere in this chapter for awards by the labor and  
67 industrial relations commission, and shall be subject to  
68 review as provided by section 287.480.

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69 [6.] 3. Any of the administrative law judges employed  
70 pursuant to this section may be assigned on a temporary  
71 basis to the branch offices as necessary in order to ensure  
72 the proper administration of this chapter.

73 [7.] 4. All administrative law judges shall be  
74 required to participate in, on a continuing basis, specific  
75 training that shall pertain to those elements of knowledge  
76 and procedure necessary for the efficient and competent  
77 performance of the administrative law judges' required  
78 duties and responsibilities. Such training requirements  
79 shall be established by the division subject to  
80 appropriations and shall include training in medical  
81 determinations and records, mediation and legal issues  
82 pertaining to workers' compensation adjudication. Such  
83 training may be credited toward any continuing legal  
84 education requirements.

85 [8. (1) The administrative law judge review committee  
86 shall conduct a performance audit of all administrative law  
87 judges every two years. The audit results, stating the  
88 committee's recommendation of confidence or no confidence of  
89 each administrative law judge shall be sent to the governor  
90 no later than the first week of each legislative session  
91 immediately following such audit. Any administrative law  
92 judge who has received three or more votes of no confidence  
93 under two successive performance audits by the committee may  
94 have their appointment immediately withdrawn.

95 (2) The review committee shall consist of one member  
96 appointed by the president pro tem of the senate, one member  
97 appointed by the minority leader of the senate, one member  
98 appointed by the speaker of the house of representatives,  
99 and one member appointed by the minority leader of the house  
100 of representatives. The governor shall appoint to the

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101 committee one member selected from the commission on  
102 retirement, removal, and discipline of judges. This member  
103 shall act as a member ex officio and shall not have a vote  
104 in the committee. The committee shall annually elect a  
105 chairperson from its members for a term of one year. The  
106 term of service for all members shall be two years. The  
107 review committee members shall all serve without  
108 compensation. Necessary expenses for review committee  
109 members and all necessary support services to the review  
110 committee shall be provided by the division.]

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

121       6. If the reasons for the complaint are willful  
122 neglect of duty or incompetency, and the reasons have not  
123 been remedied after ninety days, the director may file the  
124 complaint with the administrative hearing commission in the  
125 same manner as is provided by chapter 621. The director may  
126 cause a complaint to be filed with the administrative  
127 hearing commission as provided by chapter 621 against any  
128 administrative law judge for any one or any combination of  
129 the following causes: the administrative law judge has  
130 committed any criminal offense, regardless of whether a  
131 criminal charge has been filed; has been convicted, or has  
132 entered a plea of guilty or nolo contendere in a criminal

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133 prosecution under the laws of any state, the United States,  
134 or of any country, regardless of whether sentence is imposed  
135 or is guilty of misconduct; habitual intoxication; willful  
136 neglect of duty; corruption in office; incompetency; or has  
137 committed any act that involves moral turpitude or  
138 oppression in office.

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

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

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

156 8. Notwithstanding any provision of this section to  
157 the contrary, the following events or acts by an  
158 administrative law judge are deemed to be an immediate  
159 threat to the administration of the provisions of chapter  
160 287 and shall be considered cause for suspension with pay of  
161 the administrative law judge without notice, at the  
162 discretion of the director:

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

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

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

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

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

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

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

16           [(3)] (2) For each administrative law judge in charge,  
17 compensation at the same rate as an administrative law judge  
18 plus five thousand dollars.

19           2. Administrative law judges' and chief administrative  
20 law judges' compensation shall be determined solely by the

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21 **rate outlined in this section and shall not increase when**  
22 **pay raises for executive employees are appropriated.**

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

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

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

9 (2) "Beneficiary", a surviving spouse married to the  
10 deceased administrative law judge or legal advisor of the  
11 division of workers' compensation continuously for a period  
12 of at least two years immediately preceding the  
13 administrative law judge's or legal advisor's death and also  
14 on the day of the last termination of such person's  
15 employment as an administrative law judge or legal advisor  
16 for the division of workers' compensation, or if there is no  
17 surviving spouse eligible to receive benefits, any minor  
18 child of the deceased administrative law judge or legal  
19 advisor, or any child of the deceased administrative law  
20 judge or legal advisor who, regardless of age, is unable to  
21 support himself because of intellectual disability, disease



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22 or disability, or any physical handicap or disability, who  
23 shall share in the benefits on an equal basis with all other  
24 beneficiaries;

25 (3) "Benefit", a series of equal monthly payments  
26 payable during the life of an administrative law judge or  
27 legal advisor of the division of workers' compensation  
28 retiring pursuant to the provisions of sections 287.812 to  
29 287.855 or payable to a beneficiary as provided in sections  
30 287.812 to 287.850;

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

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

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

38 [(7)] (6) "Legal advisor", any person appointed or  
39 employed pursuant to section 287.600, 287.615, or 287.616 to  
40 serve in the capacity as a legal advisor or an associate  
41 administrative law judge and any person appointed pursuant  
42 to section 286.010 or pursuant to section 295.030, and any  
43 attorney or legal counsel appointed or employed pursuant to  
44 section 286.070;

45 [(8)] (7) "Salary", the total annual compensation paid  
46 for personal services as an administrative law judge or  
47 legal advisor, or both, of the division of workers'  
48 compensation by the state or any of its political  
49 subdivisions.

287.835. [1. No benefits provided pursuant to  
2 sections 287.812 to 287.855 shall be paid to any person who  
3 has been removed from office by impeachment or for  
4 misconduct, nor to any person who has been disbarred from

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5 the practice of law, nor to the beneficiary of any such  
6 persons.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 The term "alternative dispute resolution communication"  
12 shall not include the notifications or reports made under  
13 subsection 8 of section 435.306 or a written agreement as  
14 described under section 435.312;

15 (2) "Alternative dispute resolution process",  
16 mediation, arbitration, or early neutral evaluation used in

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17 conjunction with a pending civil action, and any other  
18 alternative to trial that has been included in a local court  
19 rule applicable to a civil dispute;

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

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

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

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

35 (7) "Mandated reporter", an individual who is required  
36 to report abuse or neglect under the provisions of section  
37 192.2405, 192.2475, 198.070, 208.912, 210.115, 352.400,  
38 630.162, or 630.165;

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

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

44 (10) "Neutral", an individual who, acting  
45 independently and not as a representative, agent, or  
46 advocate of any of the parties, assists the parties in their  
47 efforts to reach a resolution of their dispute through an  
48 alternative dispute resolution process;

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

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

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

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

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

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

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

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

5 2. In an action referred to an alternative dispute  
6 resolution process, discovery may proceed as in any other  
7 action before, during, and after the alternative dispute  
8 resolution process is held. The court may stay discovery in

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9 whole or in part during the pendency of an alternative  
10 dispute resolution process in order to promote savings in  
11 time and expense without sacrificing the quality of justice.

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

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

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

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

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

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

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

39 5. Any party who believes a court-appointed neutral  
40 has a conflict of interest may request that the neutral

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41 recuse himself or herself if a conflict is disclosed or  
42 otherwise discovered. If the neutral declines, the party  
43 may timely file a motion with the court for disqualification  
44 of the neutral. Failure to file a motion waives that  
45 objection. On its own motion, the court may also review the  
46 choice of a neutral in any alternative dispute resolution  
47 process involving a party that is not represented by counsel  
48 and require a change of neutral if necessary to protect the  
49 rights of the unrepresented party.

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

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

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

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

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

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

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

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

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



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55           5. Any participant in an alternative dispute  
56 resolution process has standing to intervene in any  
57 proceeding to object to the admissibility of an alternative  
58 dispute resolution communication made by that participant  
59 during or relating to that alternative dispute resolution  
60 process. A neutral who participated in an alternative  
61 dispute resolution process also has standing to intervene in  
62 any proceeding to object to the admissibility of an  
63 alternative dispute resolution communication made by the  
64 neutral or an agent or employee of a neutral or of an  
65 organization through which the neutral provided the  
66 alternative dispute resolution services for such process,  
67 but the neutral is under no requirement to do so.

68           6. Except as provided under subsection 7 of this  
69 section, no neutral, agent or employee of that neutral, or  
70 agent or employee of an organization through which the  
71 neutral provided alternative dispute resolution services  
72 shall be subpoenaed or otherwise compelled to disclose any  
73 alternative dispute resolution communication, including any  
74 alternative dispute resolution communication that would  
75 otherwise fall within the exceptions identified under  
76 subsection 3 of this section. No neutral who is a licensed  
77 attorney, or an agent or employee of such neutral or of an  
78 organization through which the neutral provided alternative  
79 dispute resolution services under sections 435.300 to  
80 435.312, shall be required to disclose any alternative  
81 dispute resolution communication to which a reporting  
82 obligation might otherwise apply under the rules regulating  
83 the professional conduct of attorneys.

84           7. A neutral, an agent or employee of that neutral, or  
85 an agent or employee of an organization through which the  
86 neutral provided the alternative dispute resolution services

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87 may be subpoenaed in an action to enforce a written  
88 agreement as described under subsection 2 of section  
89 435.309, but only for the limited purpose of testifying that  
90 the written agreement was signed by the parties in the  
91 presence of the neutral.

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

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

435.309. 1. Unless the parties have entered into a  
2 written agreement providing for entry into a binding  
3 alternative dispute resolution process, all alternative  
4 dispute resolution processes under sections 435.300 to  
5 435.312 shall be nonbinding.

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

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9           3. Alternative dispute resolution processes included  
10 in consumer contracts for goods or services in compliance  
11 with sections 435.350 to 435.470 shall be independently  
12 administered as set forth in the contract.

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

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

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

25           4. Nothing in sections 435.300 to 435.312 is intended  
26 to undermine the right of litigants to a jury trial in the  
27 event that a resolution satisfactory to the parties is not

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28 achieved through a nonbinding alternative dispute resolution  
29 process.

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

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

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

37 6. If the court has not referred a case to an  
38 alternative dispute resolution process under section 435.303  
39 or if the parties do not elect to use sections 435.300 to  
40 435.312, the process shall be regarded as settlement  
41 negotiations and subject to the rules of confidentiality  
42 that generally apply to such negotiations. If the parties  
43 to the dispute have agreed in writing to submit their  
44 dispute to such alternative dispute resolution process but  
45 have not invoked the protections of sections 435.300 to  
46 435.312, no person who serves as a neutral in such process,  
47 nor any agent or employee of that person or of an  
48 organization through which the neutral provided the  
49 alternative dispute resolution process, shall be subpoenaed  
50 or otherwise compelled to disclose any matter revealed in  
51 the process of setting up or conducting such alternative  
52 dispute resolution process. All settlement agreements shall  
53 be in writing as described under sections 435.300 to 435.312.

452.355. 1. Unless otherwise indicated, the court  
2 from time to time after considering all relevant factors  
3 including the financial resources of both parties, the  
4 merits of the case and the actions of the parties during the  
5 pendency of the action, may order a party to pay a  
6 reasonable amount for the cost to the other party of

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7 maintaining or defending any proceeding pursuant to sections  
8 452.300 to 452.415 and for attorney's fees, including sums  
9 for legal services rendered and costs incurred prior to the  
10 commencement of the proceeding and after entry of a final  
11 judgment. The court may order that the amount be paid  
12 directly to the attorney, who may enforce the order in the  
13 attorney's name.

14 **2. In actions brought to enforce a temporary order or**  
15 **final judgment of the court in any proceeding under sections**  
16 **452.300 to 452.415, excluding any proceeding described in**  
17 **subsection 3 of this section, the court shall order the**  
18 **party against whom enforcement is sought, if requested and**  
19 **for good cause shown, to pay the cost of the suit to the**  
20 **party seeking enforcement, including attorney's fees. The**  
21 **court may order that the amount be paid directly to the**  
22 **attorney, who may enforce the order in the attorney's name.**

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

33 **[3.] 4.** For purposes of this section, an "obligor" is  
34 a person owing a duty of support and an "obligee" is a  
35 person to whom a duty of support is owed.

36 **[4.] 5.** For purposes of this section, "good cause"  
37 includes, **but shall not be limited to,** any substantial  
38 reason why the obligor is unable to pay the child support as

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39 ordered. Good cause does not exist if the obligor purposely  
40 maintains his inability to pay.

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

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

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

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

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

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

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

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

22 (7) "Record", information:

23 (a) Inscribed on a tangible medium; or

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

26 (8) "State", a state of the United States, the  
27 District of Columbia, Puerto Rico, the United States Virgin

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28 Islands, or any other territory or possession subject to the  
29 jurisdiction of the United States. The term "state"  
30 includes a federally recognized Indian tribe.

453.704. Sections 453.700 to 453.740 do not apply to  
2 custody of an Indian child, as defined in Section 4(4) of  
3 the Indian Child Welfare Act of 1978, 25 U.S.C. Section  
4 1903(4), as amended, to the extent custody is governed by  
5 the Indian Child Welfare Act of 1978, 25 U.S.C. Sections  
6 1901 through 1963, as amended.

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

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

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

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

4 (1) A parent of the child;

5 (2) A stepparent of the child;

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

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

13 (5) An Indian custodian, as defined in Section 4(6) of  
14 the Indian Child Welfare Act of 1978, 25 U.S.C. Section  
15 1903(6), as amended, of the child; or

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

          453.710. 1. Except as provided in subsection 2 of  
2 this section, a parent or guardian of a child or an  
3 individual with whom a child has been placed for adoption  
4 shall not transfer custody of the child to another person  
5 with the intent, at the time of the transfer, to abandon the  
6 rights and responsibilities concerning the child.

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

- 12           (1) Adoption or guardianship;
- 13           (2) Judicial award of custody;
- 14           (3) Placement by or through a child-placing agency;
- 15           (4) Other judicial or tribal action; or
- 16           (5) Safe place for newborns act of 2002 under section  
17 210.950.

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

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

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



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453.712. 1. If the children's division has a  
2 reasonable basis to believe that a person has transferred or  
3 will transfer custody of a child in violation of subsection  
4 1 of section 453.710, the children's division may conduct a  
5 home visit as provided by other law of this state and take  
6 appropriate action to protect the welfare of the child.

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

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

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

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

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

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

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

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

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

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

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

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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

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7 obtainable by the agency and material to the prospective  
8 adoptive parent's informed decision to adopt the child. The  
9 information shall include:

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

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

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

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

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

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

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

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

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

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

37 3. If, after an adoption is finalized, additional  
38 information under subsection 1 of this section becomes known

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39 to the child-placing agency, the agency shall make a  
40 reasonable effort to provide the information to the adoptive  
41 parent.

453.726. 1. A child-placing agency placing a child  
2 for adoption shall provide or cause to be provided to the  
3 prospective adoptive parent guidance and instruction  
4 specific to the child to help prepare the parent to respond  
5 effectively to needs of the child that are known to or  
6 reasonably ascertainable by the agency.

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

9 (1) The potential effect on the child of:

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

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

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

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

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

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

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

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

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

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

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

          453.728. On request of a child who was placed for  
2 adoption or the child's adoptive parent, the child-placing  
3 agency placing the child or the children's division shall  
4 provide information about how to obtain financial assistance  
5 or support services:

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

9           (2) To help preserve the placement or adoption.

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

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

          453.732. The children's division may adopt rules under  
2 chapter 536 to implement sections 453.722, 453.724, and  
3 453.728. Any rule or portion of a rule, as that term is  
4 defined in section 536.010, that is created under the  
5 authority delegated in this section shall become effective

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6 only if it complies with and is subject to all of the  
7 provisions of chapter 536 and, if applicable, section  
8 536.028. This section and chapter 536 are nonseverable and  
9 if any of the powers vested with the general assembly  
10 pursuant to chapter 536 to review, to delay the effective  
11 date, or to disapprove and annul a rule are subsequently  
12 held unconstitutional, then the grant of rulemaking  
13 authority and any rule proposed or adopted after August 28,  
14 2024, shall be invalid and void.

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

453.736. Sections 453.700 to 453.740 modify, limit, or  
2 supersede the Electronic Signatures in Global and National  
3 Commerce Act, 15 U.S.C. Section 7001 et seq., as amended,  
4 but do not modify, limit, or supersede 15 U.S.C. Section  
5 7001(c), or authorize electronic delivery of any of the  
6 notices described in 15 U.S.C. Section 7003(b).

453.738. 1. Sections 453.706 to 453.716 apply to:

- 2 (1) A transfer of custody on or after August 28, 2024;  
3 and  
4 (2) Soliciting or advertising on or after August 28,  
5 2024.

6 2. Sections 453.718 to 453.732 apply to placement of a  
7 child for adoption more than sixty days after August 28,  
8 2024.

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

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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;

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

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

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

33 (7) The financial resources of the defendant.

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

36 (1) Delivered in the manner described under subsection  
37 7 of this section, as appropriate; and

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

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

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

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

50 8. If a defendant ordered to pay restitution under  
51 this section is unable to make the required restitution  
52 payments because the defendant is confined or imprisoned in  
53 a correctional facility, the defendant shall begin payments  
54 no later than the first anniversary of the date of the  
55 defendant's release from the facility. The defendant may  
56 enter into a payment plan to address any arrearage that  
57 exists on the date of the defendant's release. The



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58 defendant shall pay all arrearages regardless of whether the  
59 restitution payments were scheduled to terminate while the  
60 defendant was confined or imprisoned in the correctional  
61 facility.

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

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

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

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

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

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

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

18 (d) "Coercion", compelling another by force or threat  
19 of force to engage in conduct from which the latter has a

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20 right to abstain or to abstain from conduct in which the  
21 person has a right to engage;

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

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

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

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

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

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

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

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

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

49 (6) "Ex parte order of protection", an order of  
50 protection issued by the court before the respondent has

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51 received notice of the petition or an opportunity to be  
52 heard on it;

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

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

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

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

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

72 (12) "Petitioner", a family or household member who  
73 has been a victim of domestic violence, or any person who  
74 has been the victim of stalking or sexual assault, or a  
75 person filing on behalf of a child pursuant to section  
76 455.503 who has filed a verified petition pursuant to the  
77 provisions of section 455.020 or section 455.505;

78 (13) "Respondent", the family or household member  
79 alleged to have committed an act of domestic violence, or  
80 person alleged to have committed an act of stalking or  
81 sexual assault, against whom a verified petition has been

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82 filed or a person served on behalf of a child pursuant to  
83 section 455.503;

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

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

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

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

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

14 2. Failure to serve an ex parte order of protection on  
15 the respondent shall not affect the validity or

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16 enforceability of such order. If the respondent is less  
17 than [seventeen] **eighteen** years of age, unless otherwise  
18 emancipated, service of process shall be made upon a  
19 custodial parent or guardian of the respondent, or upon a  
20 guardian ad litem appointed by the court, requiring that the  
21 person appear and bring the respondent before the court at  
22 the time and place stated.

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

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

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

7 (2) The respondent is less than [seventeen] **eighteen**  
8 years of age.

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

17 2. Upon the entry of the ex parte order of protection,  
18 the court shall enter its order appointing a guardian ad

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19 litem or court-appointed special advocate to represent the  
20 child victim.

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

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

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

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

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

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

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

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

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

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

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

46 **(2) With the exception of any written financial**  
47 **obligations, written guarantees, or secured or unsecured**  
48 **transactions executed by the settlors and held in a**

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49 **qualified spousal trust, shall continue to be immune and**  
50 **exempt from attachment during the life of the surviving**  
51 **settlor to the extent the property was held in a qualified**  
52 **spousal trust prior to the death of the first settlor and**  
53 **remains in a qualified spousal trust. This includes any**  
54 **property appreciation; and**

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

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

62 5. Upon the death of each settlor, all property held  
63 by the trustee of the qualified spousal trust shall be  
64 distributed as directed by the then current terms of the  
65 governing instrument of such trust. Upon the death of the  
66 first settlor to die, if immediately prior to death the  
67 predeceased settlor's interest in the qualified spousal  
68 trust was then held **or deemed to be held** in such settlor's  
69 separate share, the property held in such settlor's separate  
70 share may pass into an irrevocable trust for the benefit of  
71 the surviving settlor **or other beneficiary** upon such terms  
72 as the governing instrument shall direct, including without  
73 limitation a spendthrift provision as provided in section  
74 456.5-502. **Property may be held in or transferred to a**  
75 **settlor's joint or separate share of a trust:**

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

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



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

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

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

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

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

          469.401. As used in sections [469.401] **469.399** to  
2 [469.467] **469.487**, the following terms mean:

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

12           (2) "Asset-backed security", a security that is  
13 **serviced primarily by the cash flows of a discrete pool of**

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14 fixed or revolving receivables or other financial assets  
15 that by their terms convert into cash within a finite time.  
16 The term "asset-backed security" includes rights or other  
17 assets that ensure the servicing or timely distribution of  
18 proceeds to the holder of the asset-backed security. The  
19 term "asset-backed security" does not include an asset to  
20 which section 469.423, 469.437, or 469.447 applies;

21 (3) "Beneficiary", includes:

22 (a) For a trust:

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

26 b. A remainder beneficiary; and

27 c. Any other successor beneficiary;

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

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

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

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

44 (6) "Distribution", a payment or transfer by a  
45 fiduciary to a beneficiary in the beneficiary's capacity as

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46 a beneficiary, made under the terms of the trust, without  
47 consideration other than the beneficiary's right to receive  
48 the payment or transfer under the terms of the trust. The  
49 terms "distribute", "distributed", and "distributee" have  
50 corresponding meanings;

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

55 [(3)] (8) "Fiduciary", includes a trustee, trust  
56 protector determined in section 456.8-808, personal  
57 representative, [trustee, executor, administrator, successor  
58 personal representative, special administrator and any other  
59 person performing substantially the same function] life  
60 tenant, holder of a term "fiduciary" interest, and person  
61 acting under a delegation from a fiduciary. The term  
62 "fiduciary" includes a person that holds property for a  
63 successor beneficiary whose interest may be affected by an  
64 allocation of receipts and expenditures between income and  
65 principal. If there are two or more cofiduciaries, the term  
66 "fiduciary" includes all cofiduciaries acting under the  
67 terms of the trust and applicable law;

68 [(4)] (9) "Income", money or other property [that] a  
69 fiduciary receives as current return from [a] principal  
70 [asset, including a portion]. The term "income" includes a  
71 part of receipts from a sale, exchange, or liquidation of a  
72 principal asset, [as] to the extent provided in sections  
73 469.423 to 469.449;

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

76 [(6)] (10) "Income interest", the right of [an] a  
77 current income beneficiary to receive all or part of net

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78 income, whether the terms of the trust require [it] the net  
79 income to be distributed or authorize [it] the net income to  
80 be distributed in the [trustee's] fiduciary's discretion.

81 The term "income interest" includes the right of a current  
82 beneficiary to use property held by a fiduciary;

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

84 (a) For a trust:

85 a. A qualified beneficiary as defined in section 456.1-  
86 103;

87 b. A settlor of the trust; or

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

91 (b) For an estate, a beneficiary;

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

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

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

101 [(7)] (12) "Mandatory income interest", the right of  
102 [an] a current income beneficiary to receive net income that  
103 the terms of the trust require the fiduciary to distribute;

104 [(8)] (13) "Net income", [if section 469.411 applies  
105 to the trust, the unitrust amount, or if section 469.411  
106 does not apply to the trust,] the total [receipts allocated  
107 to income] allocations during an accounting period to income  
108 under the terms of a trust and sections 469.399 to 469.487  
109 minus the disbursements [made from income during the same

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110 period, plus or minus transfers pursuant to sections 469.401  
111 to 469.467 to or from income during the same period] **during**  
112 **the period, other than distributions, allocated to income**  
113 **under the terms of the trust and sections 469.399 to**  
114 **469.487. To the extent the trust is a unitrust under**  
115 **sections 469.471 to 469.487, the term "net income" means the**  
116 **unitrust amount determined thereunder. The term "net**  
117 **income" includes an adjustment from principal to income**  
118 **under section 469.405. The term "net income" does not**  
119 **include an adjustment from income to principal under section**  
120 **469.405;**

121 [(9)] (14) "Person", an individual, [corporation,  
122 business trust,] estate, trust, [partnership, limited  
123 liability company, association, joint venture] **business or**  
124 **nonprofit entity, public corporation, government[,]** or  
125 governmental subdivision, agency, or instrumentality,  
126 [public corporation] or [any] other legal [or commercial]  
127 entity;

128 (15) "Personal representative", an executor,  
129 administrator, successor personal representative, special  
130 administrator, or person that performs substantially the  
131 same function with respect to an estate under the law  
132 governing the person's status;

133 [(10)] (16) "Principal", property held in trust for  
134 distribution to [a remainder], **production of income for, or**  
135 **use by a current or successor** beneficiary [when the trust  
136 terminates];

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

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

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141 (13)] (17) "Record", information that is inscribed on  
142 a tangible medium or that is stored in an electronic or  
143 other medium and is retrievable in perceivable form;

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

151 (19) "Special tax benefit":

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

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

160 (c) An estate or gift tax marital deduction for a  
161 transfer to a trust under 26 U.S.C. Section 2056 or 2523, as  
162 amended, which depends or depended in whole or in part on  
163 the right of the settlor's spouse to receive the net income  
164 of the trust;

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

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

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

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

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

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

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

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

188           (22) "Terms of a trust":

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

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

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

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

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

201           b. Court order; or

202           c. A nonjudicial settlement agreement under section  
203 456.1-111;

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204 (c) For an estate, a will; or

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

208 (23) "Trust":

209 (a) Includes:

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

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

215 (b) Does not include:

216 a. A constructive trust;

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

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

226 [(14)] (24) "Trustee", a person, other than a personal  
227 representative, that owns or holds property for the benefit  
228 of a beneficiary. The term "trustee" includes an original,  
229 additional, or successor trustee, whether or not appointed  
230 or confirmed by a court;

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

233 (25) "Will", any testamentary instrument recognized by  
234 applicable law that makes a legally effective disposition of  
235 an individual's property, effective at the individual's



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236 death. The term "will" includes a codicil or other  
237 amendment to a testamentary instrument.

469.402. [The provisions of sections 456.3-301 to  
2 456.3-305 shall apply to sections 469.401 to 469.467 for all  
3 purposes.] 1. Except as otherwise provided in the terms of  
4 a trust or sections 469.399 to 469.487, sections 469.399 to  
5 469.487 apply to:

6 (1) A trust or estate; and

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

10 2. Except as otherwise provided in the terms of a  
11 trust or sections 469.399 to 469.487, sections 469.399 to  
12 469.487 apply when this state is the principal place of  
13 administration of a trust or estate or the situs of property  
14 that is not held in a trust or estate and is subject to a  
15 life estate or other term interest described in subdivision  
16 (2) of subsection 1 of this section. By accepting the  
17 trusteeship of a trust having its principal place of  
18 administration in this state or by moving the principal  
19 place of administration of a trust to this state, the  
20 trustee submits to the application of sections 469.399 to  
21 469.487 to any matter within the scope of sections 469.399  
22 to 469.487 involving the trust.

469.403. 1. [In allocating receipts and disbursements  
2 to or between principal and income, and with respect to any  
3 matter within the scope of] In making an allocation or  
4 determination or exercising discretion pursuant to sections  
5 469.413 to 469.421, a fiduciary shall:

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

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

12           (3) Administer the trust or estate in accordance with  
 13 **the terms of the trust,** even if there is a different  
 14 provision in sections [469.401] **469.399** to [469.467]  
 15 **469.487; and**

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

20           **2. A fiduciary's allocation, determination, or**  
 21 **exercise of discretion pursuant to sections 469.399 to**  
 22 **469.487 is presumed to be fair and reasonable to all**  
 23 **beneficiaries. A fiduciary may exercise** a discretionary  
 24 power of administration given to the fiduciary by the terms  
 25 of the trust [or the will, even if the], **and an exercise of**  
 26 the power **that** produces a result different from a result  
 27 required or permitted by sections [469.401] **469.399** to  
 28 [469.467;] **469.487 does not create an inference that the**  
 29 **fiduciary abused the fiduciary's discretion.**

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

31           **3. A fiduciary shall:**

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

38           [(4) Shall add a receipt or] (2) Charge a  
 39 disbursement to principal, to the extent [that the terms of

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40 the trust and sections 469.401 to 469.467 do not provide a  
41 rule for allocating the receipt or disbursement to or  
42 between principal and income.

43 2. In exercising the power to adjust pursuant to  
44 section 469.405 or a discretionary power of administration  
45 regarding a matter within the scope of sections 469.401 to  
46 469.467, whether granted by the terms of a trust, a will, or  
47 sections 469.401 to 469.467, a fiduciary shall administer a  
48 trust or estate impartially, based on what is fair and  
49 reasonable to all of the beneficiaries, except to the extent  
50 that the terms of the trust or the will clearly manifest an  
51 intent that the fiduciary shall or may favor one or more of  
52 the beneficiaries. A determination in accordance with  
53 sections 469.401 to 469.467 is presumed to be fair and  
54 reasonable to all of the beneficiaries] **neither the terms of**  
55 **the trust nor sections 469.399 to 469.487 allocate the**  
56 **disbursement between income and principal.**

57 4. A fiduciary may exercise the power to adjust under  
58 section 469.405, convert an income trust to a unitrust under  
59 subdivision (1) of subsection 1 of section 469.475, change  
60 the percentage or method used to calculate a unitrust amount  
61 under subdivision (2) of subsection 1 of section 469.475, or  
62 convert a unitrust to an income trust under subdivision (3)  
63 of subsection 1 of section 469.475, if the fiduciary  
64 determines the exercise of the power will assist the  
65 fiduciary to administer the trust or estate impartially.

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

- 68 (1) The terms of the trust;  
69 (2) The nature, distribution standards, and expected  
70 duration of the trust;

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- 71           (3) The effect of the allocation rules, including  
72 specific adjustments between income and principal, under  
73 sections 407.413 to 407.461;
- 74           (4) The desirability of liquidity and regularity of  
75 income;
- 76           (5) The desirability of the preservation and  
77 appreciation of principal;
- 78           (6) The extent to which an asset is used or may be  
79 used by a beneficiary;
- 80           (7) The increase or decrease in the value of principal  
81 assets, reasonably determined by the fiduciary;
- 82           (8) Whether and to what extent the terms of the trust  
83 give the fiduciary power to accumulate income or invade  
84 principal or prohibit the fiduciary from accumulating income  
85 or invading principal;
- 86           (9) The extent to which the fiduciary has accumulated  
87 income or invaded principal in preceding accounting periods;
- 88           (10) The effect of current and reasonably expected  
89 economic conditions; and
- 90           (11) The reasonably expected tax consequences of the  
91 exercise of the power.

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

- 3           (1) A fiduciary's allocation between income and  
4 principal or other determination regarding income and  
5 principal required or authorized by the terms of the trust  
6 or sections 469.399 to 469.487;
- 7           (2) The fiduciary's exercise or nonexercise of a  
8 discretionary power regarding income and principal granted  
9 by the terms of the trust or sections 469.399 to 469.487,  
10 including the power to adjust under section 469.405, convert  
11 an income trust to a unitrust under subdivision (1) of

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12 subsection 1 of section 469.475, change the percentage or  
13 method used to calculate a unitrust amount under subdivision  
14 (2) of subsection 1 of section 469.475, or convert a  
15 unitrust to an income trust under subdivision (3) of  
16 subsection 1 of section 469.475; or

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

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

23 3. If the court determines that a fiduciary decision  
24 was an abuse of the fiduciary's discretion, the court may  
25 order a remedy authorized by law, including under section  
26 456.10-1001. To place the beneficiaries in the positions  
27 the beneficiaries would have occupied if there had not been  
28 an abuse of the fiduciary's discretion, the court may order:

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

31 (2) The fiduciary to exercise or refrain from  
32 exercising the power to convert an income trust to a  
33 unitrust under subdivision (1) of subsection 1 of section  
34 469.475, change the percentage or method used to calculate a  
35 unitrust amount under subdivision (2) of subsection 1 of  
36 section 469.475, or convert a unitrust to an income trust  
37 under subdivision (3) of subsection 1 of section 469.475;

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

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

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

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

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

14           2. This section does not create a duty to exercise or  
15 consider the power to adjust under subsection 1 of this  
16 section or to inform a beneficiary about the applicability  
17 of this section.

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

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22 [2.] 4. In deciding whether and to what extent to  
23 exercise the power [conferred by] **to adjust under** subsection  
24 1 of this section, a [trustee] **fiduciary** shall consider all  
25 factors **the fiduciary considers** relevant [to the trust and  
26 its beneficiaries], including [the following] **relevant**  
27 factors [to the extent relevant:] **in subsection 5 of section**  
28 **469.403 and the application of sections 469.423, 469.435,**  
29 **and 469.445.**

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

32 (2) The intent of the settlor;

33 (3) The identity and circumstances of the  
34 beneficiaries;

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

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

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

49 (7) Whether and to what extent the terms of the trust  
50 give the trustee the power to invade principal or accumulate  
51 income, or prohibit the trustee from invading principal or  
52 accumulating income, and the extent to which the trustee has

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53 exercised a power from time to time to invade principal or  
54 accumulate income;

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

58 (9) The anticipated tax consequences of an adjustment.

59 3.] 5. A [trustee may] **fiduciary shall not exercise**  
60 **the power under subsection 1 of this section to make an**  
61 **adjustment or under section 469.435 to make a determination**  
62 **that an allocation is insubstantial if:**

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

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

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

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

82 [(4) From any] (3) **The adjustment or determination**  
83 **would reduce an** amount that is permanently set aside for a  
84 charitable [purposes] **purpose** under [a will or] the terms of



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85 [a] the trust [to the extent that the existence of the power  
86 to adjust would change the character of the amount], **unless**  
87 **both income and principal are** set aside for [federal income,  
88 gift or estate tax purposes] **the charitable purpose;**

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

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

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

103 (7) **The fiduciary is not an independent person;**

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

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

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

114 (9) **The trust is a unitrust under sections 469.471 to**  
115 **469.487.**

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116 [4.] 6. If [subdivision (5), (6), (7) or (8) of]  
117 subsection [3] 5 of this section applies to a [trustee and  
118 there is more than one trustee, a cotrustee to whom the  
119 provision does] fiduciary:

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

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

137 [5.] 7. A [trustee] fiduciary may release [the entire  
138 power conferred by subsection 1 of this section, or may  
139 release only the power to adjust from income to principal or  
140 the power to adjust from principal to income if the trustee  
141 is uncertain about whether possessing or exercising the  
142 power will] or delegate to a cofiduciary the power to adjust  
143 under subsection 1 of this section if the fiduciary  
144 determines that the fiduciary's possession or exercise of  
145 the power will or may:

146 (1) Cause a result described in subdivisions (1) to  
147 (6) or subdivision (8) of subsection [3] 5 of this section

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148 [ , ] ; or [ if the trustee determines that possessing or  
 149 exercising the power will or may ]

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

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

156 (1) **Shall be in a record;**

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

160 (a) **From income to principal;**

161 (b) **From principal to income;**

162 (c) **For specified property; or**

163 (d) **In specified circumstances;**

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

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

172 [6.] **9. Terms of a trust that deny or limit the power**  
 173 **[of a trustee] to [make an adjustment] adjust between income**  
 174 **and principal [and income] do not affect the application of**  
 175 **this section unless [it is clear from] the terms of the**  
 176 **trust [that the terms are intended to] expressly deny [the**  
 177 **trustee] or limit the power [of adjustment conferred by] to**  
 178 **adjust under** subsection 1 of this section.

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

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

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

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

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

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

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

8           [(1)] 2. A fiduciary of an estate or [of a  
9 terminating] trust with an income interest that terminates  
10 shall determine, under subsection 7 of this section and  
11 sections 469.417 to 469.462, the amount of net income and  
12 net principal receipts received from property specifically  
13 given to a beneficiary [pursuant to the rules in sections  
14 469.417 to 469.461 which apply to trustees and the rules in  
15 subdivision (5) of this section]. The fiduciary shall  
16 distribute the net income and net principal receipts to the

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17 beneficiary [who] **that** is to receive the specific  
18 property[;].

19 [(2)] **3.** A fiduciary shall determine the [remaining]  
20 **income and** net income of [a decedent's] **an** estate or [a  
21 **terminating**] income interest [pursuant to the rules in] **in a**  
22 **trust that terminates, other than the amount of net income**  
23 **determined under subsection 2 of this section, under**  
24 sections 469.417 to [469.461 which apply to trustees]  
25 **469.462** and by:

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

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

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

40 **(b)** **The fiduciary makes an adjustment under subsection**  
41 **2 of section 469.462; and**

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

47 **(a)** **To the extent authorized by the decedent's will,**  
48 **the terms of the trust, or applicable law,** debts, funeral

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49 expenses, disposition of remains, family allowances, [and  
50 death taxes] **estate and inheritance taxes, and other taxes**  
51 **imposed because of the decedent's death;** and

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

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

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

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

79 [(4)] 6. A fiduciary shall distribute [the] net income  
80 remaining after [distributions] **payments** required by

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81 [subdivision (3)] **subsections 4 and 5** of this section in the  
82 manner described in section 469.415 to all other  
83 beneficiaries, including a beneficiary [who] **that** receives a  
84 pecuniary amount in trust, even if the beneficiary holds an  
85 unqualified power to withdraw assets from the trust or other  
86 presently exercisable general power of appointment over the  
87 trust[;].

88 [(5)] **7.** A fiduciary [may] **shall** not reduce principal  
89 or income receipts from property described in [subdivision  
90 (1)] **subsection 2** of this section because of a payment  
91 described in sections 469.451 and 469.453 to the extent  
92 [that] the **decedent's** will, the terms of the trust, or  
93 applicable law requires the fiduciary to make the payment  
94 from assets other than the property or to the extent [that]  
95 the fiduciary recovers or expects to recover the payment  
96 from a third party. The net income and principal receipts  
97 from the property [are] **shall be** determined by including  
98 [all of] the amounts the fiduciary receives or pays [with  
99 respect to] **regarding** the property, whether [those amounts]  
100 **the amount** accrued or became due before, on, or after the  
101 date of [a] **the** decedent's death or an income interest's  
102 terminating event, and [by] making a reasonable provision  
103 for [amounts that the fiduciary believes] **an amount** the  
104 estate or [terminating] income interest may become obligated  
105 to pay after the property is distributed.

469.415. 1. [Each] **Except to the extent sections**  
2 **469.471 to 469.487 apply for a** beneficiary **that is a trust,**  
3 **each beneficiary** described in subdivision [(4)] **(6)** of  
4 section 469.413 is entitled to receive a [portion] **share** of  
5 the net income equal to the beneficiary's fractional  
6 interest in undistributed principal assets, using values as  
7 of the distribution date. If a fiduciary makes more than

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8 one distribution of assets to beneficiaries to [whom] which  
9 this section applies, each beneficiary, including [one who]  
10 **a beneficiary that** does not receive part of the  
11 distribution, is entitled, as of each distribution date, to  
12 **a share of** the net income the fiduciary [has] received after  
13 the [date of] **decedent's** death [or], **an income interest's**  
14 **other** terminating event, or [earlier] **the preceding**  
15 distribution [date but has not distributed as of the current  
16 distribution date] **by the fiduciary.**

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

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

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

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

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

35 (b) **Without regard to:**

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

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



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40            [(4)] (3) The distribution date [for purposes of this  
 41 section] **under subdivision (1) of this subsection** may be the  
 42 date as of which the fiduciary calculates the value of the  
 43 assets if that date is reasonably near the date on which **the**  
 44 assets are [actually] distributed.

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

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

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

7            (1) **The trust for the current income beneficiary; or**

8            (2) **A successive interest for a successor beneficiary.**

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

11            (1) [On the date it is transferred to the trust in the  
 12 case of] **For** an asset that is transferred to [a] **the** trust

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13 during the [transferor's] settlor's life, on the date the  
 14 asset is transferred;

15 (2) [On the date of a testator's death in the case of]  
 16 For an asset that becomes subject to [a] the trust [by  
 17 reason] because of a [will] decedent's death, on the date of  
 18 the decedent's death, even if there is an intervening period  
 19 of administration of the [testator's] decedent's estate; or

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

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

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

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

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

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

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

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

27           [3.] 4. **A receipt or disbursement is periodic under**  
28 **subsections 2 and 3 of this section if:**

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

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

33           5. An item of income or [an] obligation is due **under**  
34 **this section** on the date [a payment] **the payer** is required  
35 **to make a payment.** If a payment date is not stated, there  
36 is no due date [for the purposes of sections 469.401 to  
37 469.467].

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

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

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

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

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

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

18           3. **If a beneficiary has an unqualified power to**  
19 **[revoke]** **withdraw** more than five percent of the **value of a**

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20 trust immediately before [the] an income interest ends[. In  
21 the latter case,]:

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

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

27 [3.] 4. When a [trustee's] fiduciary's obligation to  
28 pay a fixed annuity or a fixed fraction of the value of [the  
29 trust's] assets ends, the [trustee] fiduciary shall prorate  
30 the final payment [if and to the extent] as required [by  
31 applicable law to accomplish a purpose of the trust or its  
32 settlor relating] to preserve an income tax, gift tax,  
33 estate tax, or other tax [requirements] benefit.

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

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

5 (a) Return of capital; or

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

8 (2) "Entity" [means]:

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

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- 19           (b) The term "entity" does not include:
- 20           a. A trust or estate to which section 469.425 applies;
- 21           b. A business or other activity to which section
- 22 469.427 applies that is not conducted by an entity described
- 23 in paragraph (a) of this subdivision;
- 24           c. An asset-backed security; or
- 25           d. An instrument or arrangement to which section
- 26 469.446 applies;

27           (3) "Entity distribution", a payment or transfer by an

28 entity made to a person in the person's capacity as an owner

29 or holder of an interest in the entity.

30           2. In this section, an attribute or action of an

31 entity includes an attribute or action of any other entity

32 in which the entity owns or holds an interest, including an

33 interest owned or held indirectly through another entity.

34           [2.] 3. Except as otherwise provided in [this section]

35 subdivisions (2) to (4) of subsection 4 of this section, a

36 [trustee] fiduciary shall allocate to income:

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

38           3. A trustee shall allocate the following receipts

39 from an entity to principal:

40           (1) Property other than money;

41           (2) Money received in one distribution or a series of

42 related distributions in exchange for part or all of a

43 trust's interest in the entity;

44           (3) Money received in total or partial liquidation of

45 the entity; and

46           (4) Money received from an entity that is]

47 distribution; and

48           (2) Tangible personal property of nominal value

49 received from the entity.

50           4. A fiduciary shall allocate to principal:

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

53           (a) Money; or

54           (b) Tangible personal property of nominal value;

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

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

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

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

68           4. Money is received in partial liquidation:

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

72           (2) If]; or

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

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

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

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

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

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

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

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

109           (3) If neither subdivision (1) nor (2) of this  
110 subsection applies, by considering the factors in subsection  
111 6 of this section and the information known to the fiduciary  
112 or provided to the fiduciary by or on behalf of the entity.



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

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

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

119           (a) The entity distribution; or

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

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

126           (a) The entity's operating income;

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

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

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

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

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

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

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

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

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

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

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

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

158 8. If a fiduciary receives additional information  
159 about the application of this section to an entity  
160 distribution before the fiduciary has paid part of the  
161 entity distribution to a beneficiary, the fiduciary may  
162 consider the additional information before making the  
163 payment to the beneficiary and may change a decision to make  
164 the payment to the beneficiary.

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

469.425. A [trustee] fiduciary shall allocate to  
2 income an amount received as a distribution of income,  
3 including a unitrust distribution under sections 469.471 to  
4 469.487, from a trust or [an] estate in which the [trust]  
5 fiduciary has an interest, other than [a] an interest the

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6 **fiduciary** purchased [interest] in a trust that is an  
7 **investment entity**, and shall allocate to principal an amount  
8 received as a distribution of principal from [such a] **the**  
9 trust or estate. If a [trustee] **fiduciary** purchases, or  
10 **receives from a settlor**, an interest in a trust that is an  
11 investment entity, [or a decedent or donor transfers an  
12 interest in such a trust to a trustee,] section 469.423  
13 [or], **469.446, or 469.449 [shall apply] applies** to a receipt  
14 from the trust.

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

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

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

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

18 [2.] 3. A [trustee who] **fiduciary that** accounts  
19 **separately under this section** for a business or other  
20 activity:

21 (1) May determine:

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

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24           a. Working capital[,];  
25           b. The acquisition or replacement of fixed assets[,];  
26 and

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

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

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

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

47           **[3.] 4.** Activities for which a [trustee may maintain  
48 separate accounting records] **fiduciary may account**  
49 **separately under this section** include:

50           (1) Retail, manufacturing, service, and other  
51 traditional business activities;

52           (2) Farming;

53           (3) Raising and selling livestock and other animals;

54           (4) [Management of] **Managing** rental properties;

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55 (5) [Extraction of] **Extracting** minerals, **water**, and  
56 other natural resources;

57 (6) **Growing and cutting** timber [operations]; [and]

58 (7) [Activities] **An activity** to which section **469.446**,  
59 **469.447**, or **469.449** applies[.]; and

60 (8) **Any other business conducted by the fiduciary.**

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

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

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

8 (b) **An estate**[,];

9 (c) A trust [with a terminating] **on termination of an**  
10 **income interest**[,]; or

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

13 (2) **Except as otherwise provided in sections 469.423**  
14 **to 469.449**, money or other property received from the sale,  
15 exchange, liquidation, or change in form of a principal  
16 asset[, including realized profit, subject to sections  
17 469.423 to 469.467];

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

24 (4) Proceeds of property taken by eminent domain, [but  
25 a separate award made] **except that proceeds awarded** for  
26 [the] loss of income [with respect to] **in** an accounting

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27 period [during which] **are income if** a current income  
 28 beneficiary had a mandatory income interest [is income]  
 29 **during the period;**

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

33 (6) Other receipts as provided in sections 469.435 to  
 34 469.449.

469.431. To the extent [that a trustee accounts] **a**  
 2 **fiduciary does not account** for [receipts from] **the**  
 3 **management of** rental property [pursuant to this section] **as**  
 4 **a business under section 469.427,** the [trustee] **fiduciary**  
 5 shall allocate to income an amount received as rent of real  
 6 or personal property, including an amount received for  
 7 cancellation or renewal of a lease. An amount received as a  
 8 refundable deposit, including a security deposit or a  
 9 deposit that is to be applied as rent for future periods[,  
 10 shall be added to principal and held subject to the terms of  
 11 the lease and is not available for distribution to a  
 12 beneficiary until the trustee's contractual obligations have  
 13 been satisfied with respect to that amount.]:

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

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

469.432. 1. **This section does not apply to an**  
 2 **obligation to which section 469.437, 469.439, 469.441,**  
 3 **469.443, 469.446, 469.447, or 469.449 applies.**

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

11           **[2.] 3. A [trustee] fiduciary** shall allocate to  
12 principal an amount received from the sale, redemption, or  
13 other disposition of an obligation to pay money to the  
14 [trustee more than one year after it is purchased or  
15 acquired by the trustee, including an obligation whose  
16 purchase price or value when it is acquired is less than its  
17 value at maturity. If the obligation matures within one  
18 year after it is purchased or acquired by the trustee, an  
19 amount received in excess of its purchase price or its value  
20 when acquired by the trust shall be allocated to income]  
21 **fiduciary. A fiduciary shall allocate to income the**  
22 **increment in value of a bond or other obligation for the**  
23 **payment of money bearing no stated interest but payable or**  
24 **redeemable, at maturity or another future time, in an amount**  
25 **that exceeds the amount in consideration of which it was**  
26 **issued.**

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

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

3           **2. Except as otherwise provided in subsection [2] 3 of**  
4 **this section, a [trustee] fiduciary** shall allocate to  
5 principal the proceeds of a life insurance policy or other  
6 contract [in which the trust or its trustee is named]

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7 **received by the fiduciary** as beneficiary, including a  
 8 contract that insures [the trust or its trustee] against  
 9 [loss for] damage to, destruction of, or loss of title to [a  
 10 trust] **an** asset. The [trustee] **fiduciary** shall allocate  
 11 dividends on an insurance policy to income [if] **to** the  
 12 **extent** premiums on the policy are paid from income[, ] and to  
 13 principal [if] **to** the **extent** premiums **on the policy** are paid  
 14 from principal.

15 [2.] 3. A [trustee] **fiduciary** shall allocate to income  
 16 proceeds of a contract that insures the [trustee] **fiduciary**  
 17 against loss of:

- 18 (1) Occupancy or other use by [an income beneficiary,  
 19 loss of] **a current** income[, ] **beneficiary**;  
 20 (2) **Income**; or[, ]  
 21 (3) Subject to section 469.427, [loss of] profits from  
 22 a business.

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

469.435. 1. If a [trustee] **fiduciary** determines that  
 2 an allocation between **income and** principal [and income]  
 3 required by section 469.437, 469.439, 469.441, 469.443 or  
 4 469.449 is insubstantial, the [trustee] **fiduciary** may  
 5 allocate the entire amount to principal, unless [one of the  
 6 circumstances described in] subsection [3] 5 of section  
 7 469.405 applies to the allocation. [This power]

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



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

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

22 **3. The power to make a determination under subsection**  
 23 **1 of this section may be:**

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

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

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

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

4 (a) Received or withdrawn from a plan; or

5 (b) One of a series of distributions that have been or  
 6 will be received over a fixed number of years or during the  
 7 life of one or more individuals under any contractual or  
 8 other arrangement, or is a single payment from a plan that  
 9 the trustee could have received over a fixed number of years  
 10 or during the life of one or more individuals;

11 (2) "Plan", a contractual, custodial, trust or other  
 12 arrangement that provides for distributions to the trust,  
 13 including, but not limited to, qualified retirement plans,  
 14 Individual Retirement Accounts, Roth Individual Retirement  
 15 Accounts, public and private annuities, and deferred  
 16 compensation, including payments received directly from an  
 17 entity as defined in section 469.423 regardless of whether

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18 or not such distributions are made from a specific fund or  
19 account.

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

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

35 4. For purposes of this section, if a payment is  
36 received from a plan that maintains a separate account or  
37 fund for its participants or account holders, including, but  
38 not limited to, defined contribution retirement plans,  
39 Individual Retirement Accounts, Roth Individual Retirement  
40 Accounts, and some types of deferred compensation plans, the  
41 phrase "plan income" shall mean either the amount of the  
42 plan account or fund held for the benefit of the trust that,  
43 if the plan account or fund were a trust, would be allocated  
44 to income pursuant to sections 469.401 to 469.467 for that  
45 accounting period, or four percent of the value of the plan  
46 account or fund on the first day of that accounting period.  
47 The method of determining plan income pursuant to this  
48 subsection shall be chosen by the trustee in the trustee's  
49 discretion. The trustees may change the method of

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50 determining plan income pursuant to this subsection for any  
51 future accounting period.

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

62 6. Notwithstanding subsections 1 to 5 of this section,  
63 with respect to a trust where an election to qualify for a  
64 marital deduction under Section 2056(b)(7) or Section  
65 2523(f) of the Internal Revenue Code of 1986, as amended,  
66 has been made, or a trust that qualified for the marital  
67 deduction under either Section 2056(b)(5) or Section 2523(e)  
68 of the Internal Revenue Code of 1986, as amended, a trustee  
69 shall determine the plan income for the accounting period as  
70 if the plan were a trust subject to sections 469.401 to  
71 469.467. Upon request of the surviving spouse, the trustee  
72 shall demand that the person administering the plan  
73 distribute the plan income to the trust. The trustee shall  
74 allocate a payment from the plan to income to the extent of  
75 the plan income and distribute that amount to the surviving  
76 spouse. The trustee shall allocate the balance of the  
77 payment to principal. Upon request of the surviving spouse,  
78 the trustee shall allocate principal to income to the extent  
79 the plan income exceeds payments made from the plan to the  
80 trust during the accounting period.

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81 7. If, to obtain an estate or gift tax marital  
82 deduction for a trust, a trustee shall allocate more of a  
83 payment to income than provided for by this section, the  
84 trustee shall allocate to income the additional amount  
85 necessary to obtain the marital deduction.] "Internal income  
86 of a separate fund", the amount determined under subsection  
87 2 of this section;

88 (2) "Marital trust", a trust:

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

92 (b) That qualifies for a marital deduction with  
93 respect to the settlor's estate under 26 U.S.C. Section  
94 2056, as amended, because:

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

98 b. The trust qualifies for a marital deduction under  
99 26 U.S.C. Section 2056(b) (5), as amended;

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

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

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

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

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

121           (3) If the fiduciary cannot determine the value of the  
122 separate fund under subdivision (2) of this subsection, the  
123 value of the separate fund is deemed to equal the present  
124 value of the expected future payments, as determined under  
125 26 U.S.C. Section 7520, as amended, for the month preceding  
126 the beginning of the accounting period for which the  
127 computation is made.

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

132           4. The fiduciary of a marital trust shall:

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

139           (2) Transfer from principal to income the amount the  
140 current income beneficiary requests the fiduciary to  
141 transfer, not greater than the amount by which the internal  
142 income of the separate fund during the period exceeds the  
143 amount the fiduciary receives from the separate fund during

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144 the period after the application of subdivision (1) of this  
145 subsection; and

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

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

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

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

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

10 2. This section does not [include a payment] apply to  
11 a receipt subject to section 469.423, 469.437, [resources  
12 subject to section] 469.441, [timber subject to section]  
13 469.443, [an activity subject to section] 469.446, 469.447,  
14 [an asset subject to section] 469.449, or [any asset for  
15 which the trustee establishes a reserve for depreciation  
16 pursuant to section] 469.455.

17 [2.] 3. A [trustee] fiduciary shall allocate:

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- 18           (1) To income [ten percent of the receipts from]:
- 19           (a) A receipt produced by a liquidating asset [and the
- 20 balance], to the extent the receipt does not exceed three
- 21 percent of the value of the asset; or
- 22           (b) If the fiduciary cannot determine the value of the
- 23 asset, ten percent of the receipt; and
- 24           (2) To principal, the balance of the receipt.
- 469.441. 1. To the extent [that a trustee accounts
- 2 for receipts] a fiduciary does not account for a receipt
- 3 from an interest in minerals, water, or other natural
- 4 resources [pursuant to this section] as a business under
- 5 section 469.427, the [trustee] fiduciary shall allocate
- 6 [them as follows] the receipt:
- 7           (1) [If] To income, to the extent received:
- 8           (a) As [nominal] delay rental or [nominal] annual rent
- 9 on a lease[, a receipt shall be allocated to income];
- 10           (b) As a factor for interest or the equivalent of
- 11 interest under an agreement creating a production payment; or
- 12           (c) On account of an interest in renewable water;
- 13           (2) To principal, if received from a production
- 14 payment, [a receipt shall be allocated to income if and to
- 15 the extent that the agreement creating the production
- 16 payment provides a factor for interest or its equivalent.
- 17 The balance shall be allocated to principal;] to the extent
- 18 paragraph (b) of subdivision (1) of this subsection does not
- 19 apply; or
- 20           (3) [If an amount received] Between income and
- 21 principal equitably, to the extent received:
- 22           (a) On account of an interest in nonrenewable water;
- 23           (b) As a royalty, shut-in-well payment, take-or-pay
- 24 payment, or bonus [or delay rental is more than nominal,

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25 ninety percent shall be allocated to principal and the  
26 balance to income]; or

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

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

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

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

48 4. If a [trust] fiduciary owns or holds an interest in  
49 minerals, water, or other natural resources [on] before  
50 August 28, [2001] 2024, the [trustee] fiduciary may allocate  
51 receipts from the interest as provided in [sections 469.401  
52 to 469.467] this section or in the manner used by the  
53 [trustee] fiduciary before August 28, [2001] 2024. If the  
54 [trust] fiduciary acquires an interest in minerals, water,  
55 or other natural resources on or after August 28, [2001]  
56 2024, the [trustee] fiduciary shall allocate receipts from



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57 the interest as provided in [sections 469.401 to 469.467]  
58 **this section.**

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

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

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

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

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

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

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

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

34 4. If a [trust] **fiduciary** owns or holds an interest in  
 35 [timberland on] **land used for growing and cutting timber**  
 36 **before** August 28, [2001] **2024**, the [trustee] **fiduciary** may  
 37 allocate net receipts from the sale of timber and related  
 38 products as provided in [sections 469.401 to 469.467] **this**  
 39 **section** or in the manner used by the [trustee] **fiduciary**  
 40 before August 28, [2001] **2024**. If the [trust] **fiduciary**  
 41 acquires an interest in [timberland] **land used for growing**  
 42 **and cutting timber on or** after August 28, [2001] **2024**, the  
 43 [trustee] **fiduciary** shall allocate net receipts from the  
 44 sale of timber and related products as provided in [sections  
 45 469.401 to 469.467] **this section**.

469.445. 1. If a **trust received property for which a**  
 2 **gift or estate tax** marital deduction [is allowed for all or  
 3 part of a trust whose] **was allowed and the settlor's spouse**  
 4 **holds a mandatory income interest in the trust, the spouse**  
 5 **may require the trustee, to the extent the trust** assets  
 6 [consist substantially of property that does] **otherwise do**  
 7 not provide the spouse with sufficient income from or use of  
 8 the trust assets[, and if the amounts that the trustee  
 9 transfers from principal to income pursuant to section  
 10 469.405 and distributes to the spouse from principal  
 11 pursuant to the terms of the trust are insufficient to  
 12 provide the spouse with the beneficial enjoyment required to  
 13 obtain the marital] **to qualify for the** deduction, [the  
 14 spouse may require the trustee] to:

- 15 (1) Make property productive of income[,];
- 16 (2) Convert property **to property productive of income**  
 17 within a reasonable time[,]; or

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

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

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

**469.446. A fiduciary shall allocate receipts from or**  
2 **related to a financial instrument or arrangement not**  
3 **otherwise addressed by sections 469.399 to 469.487. The**  
4 **allocation shall be consistent with sections 469.447 and**  
5 **469.449.**

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

16           2. To the extent [that a trustee] **a fiduciary** does not  
17 account [pursuant to section 469.427 for transactions] **for a**  
18 **transaction** in derivatives[, the trustee] **as a business**  
19 **under section 469.427, the fiduciary** shall allocate [to

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20 principal] ten percent of receipts from the transaction and  
21 ten percent of disbursements made in connection with [those  
22 transactions] the transaction to income and the balance to  
23 principal.

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

26 (1) A [trustee] fiduciary:

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

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

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

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

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

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

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

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

469.449. 1. [As used in this section, the phrase  
2 "asset-backed security" means an asset whose value is based  
3 upon the right it gives the owner to receive distributions

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4 from the proceeds of financial assets that provide  
5 collateral for the security. The phrase includes an asset  
6 that gives the owner the right to receive from the  
7 collateral financial assets only the interest or other  
8 current return or only the proceeds other than interest or  
9 current return. The phrase does not include an asset to  
10 which section 469.423 or 469.437 applies.

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

21 [3.] 2. If a [trust] **fiduciary** receives one or more  
22 payments in exchange for **part or all of** the [trust's entire]  
23 **fiduciary's** interest in an asset-backed security [in one  
24 accounting period, the trustee shall allocate the payments  
25 to principal. If a payment is one of a series of payments  
26 that will result in the ], **including a** liquidation or  
27 **redemption** of the [trust's] **fiduciary's** interest in the  
28 security [over more than one accounting period,] the  
29 [trustee] **fiduciary** shall allocate [ten] **to income ten**  
30 percent of **receipts from** the [payment to income] **transaction**  
31 and [the balance to principal] **ten percent of disbursements**  
32 **made in connection with the transaction, and to principal**  
33 **the balance of the receipts and disbursements.**

469.451. [A trustee shall make the following  
2 disbursements from income to the extent that they are not

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3 disbursements to which paragraph (b) or (c) of] **Subject to**  
4 **section 469.456, and except as otherwise provided in**  
5 subdivision (2) or (3) of subsection 3 of section 469.413  
6 [applies], a fiduciary shall disburse from income:

7 (1) One-half of:

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

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

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

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

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

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

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

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

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

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

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

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

25 [(6)] (7) **A payment of an estate[,]** or inheritance  
 26 [and other transfer taxes] **tax or other tax imposed because**  
 27 **of the death of a decedent,** including penalties, apportioned  
 28 to the trust; and

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

31 (8) Expenses for a capital improvement to a principal  
 32 asset, whether in the form of changes to an existing asset

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33 or the construction of a new asset, including special  
34 assessments; and

35 (9) Disbursements] (8) **A payment:**

36 (a) Related to environmental matters, including:

37 a. Reclamation[,];

38 b. Assessing environmental conditions[,];

39 c. Remedying and removing environmental  
40 contamination[,];

41 d. Monitoring remedial activities and the release of  
42 substances[,];

43 e. Preventing future releases of substances[,];

44 f. Collecting amounts from persons liable or  
45 potentially liable for the costs of [those] activities[,]  
46 **described in subparagraphs a. to e. of this paragraph;**

47 g. Penalties imposed under environmental laws or  
48 regulations [and];

49 h. Other [payments made] **actions** to comply with  
50 [those] **environmental** laws or regulations[,];

51 i. Statutory or common law claims by third parties[,];  
52 and

53 j. Defending claims based on environmental matters[.];  
54 **and**

55 (b) **For a premium for insurance for matters described**  
56 **in paragraph (a) of this subdivision.**

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

469.455. 1. [As used] In this section, [the term]  
2 "depreciation" means a reduction in value due to wear, tear,



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3 decay, corrosion, or gradual obsolescence of a [fixed]  
4 **tangible** asset having a useful life of more than one year.

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

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

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

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

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

19 (a) **Under section 469.439 for the asset; or**

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

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

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

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

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

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

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

16           3. If an asset whose ownership gives rise to an income  
17 disbursement becomes subject to a successive interest after  
18 an income interest ends, the fiduciary may continue to make  
19 transfers under subsection 1 of this section.

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

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

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

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

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

22           [(3)] (4) A periodic [payments] payment on an  
23 obligation secured by a principal asset, to the extent  
24 [that] the amount transferred from income to principal for

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25 depreciation is less than the periodic [payments] **payment;**  
26 and

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

29 3. If [the] **an** asset whose ownership gives rise to  
30 [the disbursements] **a principal disbursement** becomes subject  
31 to a successive [income] interest after an income interest  
32 ends, [a trustee] **the fiduciary** may continue to [transfer  
33 amounts from income to principal as provided in] **make**  
34 **transfers under** subsection 1 of this section.

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

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

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

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

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

20 4. After applying subsections 1 to 3 of this section,  
21 [the trustee] **a fiduciary** shall adjust income or principal  
22 receipts, to the extent [that] the [trust's] taxes **the**

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23 **fiduciary pays** are reduced because [the trust receives] of a  
24 deduction for a payment made to a beneficiary.

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

5 (1) An election or decision the fiduciary makes  
6 regarding a tax matter, other than a decision to claim an  
7 income tax deduction to which subsection 2 of this section  
8 applies;

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

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

17 2. If the amount of an estate tax marital or  
18 charitable deduction is reduced because a fiduciary deducts  
19 an amount paid from principal for income tax purposes  
20 instead of deducting it for estate tax purposes and, as a  
21 result, estate taxes paid from principal are increased and  
22 income taxes paid by the fiduciary or a beneficiary are  
23 decreased, the fiduciary shall charge each beneficiary that  
24 benefits from the decrease in income tax to reimburse the  
25 principal from which the increase in estate tax is paid.  
26 The total reimbursement shall equal the increase in the  
27 estate tax, to the extent the principal used to pay the  
28 increase would have qualified for a marital or charitable  
29 deduction but for the payment. The share of the  
30 reimbursement for each fiduciary or beneficiary whose income

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31 taxes are reduced shall be the same as its share of the  
32 total decrease in income tax.

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

469.463. In applying and construing sections [469.401]  
2 469.399 to [469.467] 469.487, consideration shall be given  
3 to the need to promote uniformity of the law with respect to  
4 its subject matter among states that enact it.

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

469.465. If any provision of sections [469.401]  
2 469.399 to [469.467] 469.487 or [the] its application [of  
3 these sections] to any person or circumstance is held  
4 invalid, the invalidity does not affect other provisions or  
5 applications of sections [469.401] 469.399 to [469.467]  
6 469.487 which can be given effect without the invalid  
7 provision or application and to this end, the provisions of  
8 sections 469.399 to 469.487 are severable.

469.467. The provisions of sections [469.401] 469.399  
2 to [469.467] 469.487 apply to [every] a trust or  
3 [decendent's] estate existing or created on or after August  
4 28, [2001] 2024, except as otherwise expressly provided in  
5 the [will or] terms of the trust or [in] sections [469.401]  
6 469.399 to [469.467] 469.487.

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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

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7 expression of intent that net income not be calculated as a  
8 unitrust amount; and

9 (2) An express unitrust, except to the extent the  
10 terms of the trust explicitly:

11 (a) Prohibit use of sections 469.471 to 469.487 by a  
12 specific reference to such sections;

13 (b) Prohibit conversion to an income trust; or

14 (c) Limit changes to the method of calculating the  
15 unitrust amount.

16 2. Sections 469.471 to 469.487 do not apply to a trust  
17 described in 26 U.S.C. Section 170(f)(2)(B), 642(c)(5),  
18 664(d), 2702(a)(3)(A)(ii) or (iii), or 2702(b), as amended.

19 3. An income trust to which sections 469.471 to  
20 469.487 apply under subdivision (1) of subsection 1 of this  
21 section may be converted to a unitrust under sections  
22 469.471 to 469.487 regardless of the terms of the trust  
23 concerning distributions. Conversion to a unitrust under  
24 sections 469.471 to 469.487 does not affect other terms of  
25 the trust concerning distributions of income or principal.

26 4. Sections 469.471 to 469.487 apply to an estate only  
27 to the extent a trust is a beneficiary of the estate. To  
28 the extent of the trust's interest in the estate, the estate  
29 may be administered as a unitrust, the administration of the  
30 estate as a unitrust may be discontinued, or the percentage  
31 or method used to calculate the unitrust amount may be  
32 changed, in the same manner as for a trust under sections  
33 469.471 to 469.487.

34 5. Sections 469.471 to 469.487 do not create a duty to  
35 take or consider action under sections 469.471 to 469.487 or  
36 to inform a beneficiary about the applicability of sections  
37 469.471 to 469.487.

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38           6. A fiduciary that in good faith takes or fails to  
39 take an action under sections 469.471 to 469.487 is not  
40 liable to a person affected by the action or inaction.

          469.475. 1. A fiduciary, without court approval, by  
2 complying with subsections 2 and 6 of this section, may:

3           (1) Convert an income trust to a unitrust if the  
4 fiduciary adopts in a record a unitrust policy for the trust  
5 providing:

6           (a) That in administering the trust the net income of  
7 the trust will be a unitrust amount rather than net income  
8 determined without regard to sections 469.471 to 469.487; and

9           (b) The percentage and method used to calculate the  
10 unitrust amount;

11           (2) Change the percentage or method used to calculate  
12 a unitrust amount for a unitrust if the fiduciary adopts in  
13 a record a unitrust policy or an amendment or replacement of  
14 a unitrust policy providing changes in the percentage or  
15 method used to calculate the unitrust amount; or

16           (3) Convert a unitrust to an income trust if the  
17 fiduciary adopts in a record a determination that, in  
18 administering the trust, the net income of the trust will be  
19 net income determined without regard to sections 469.471 to  
20 469.487 rather than a unitrust amount.

21           2. A fiduciary may take an action under subsection 1  
22 of this section if:

23           (1) The fiduciary determines that the action will  
24 assist the fiduciary to administer a trust impartially;

25           (2) The fiduciary sends a notice in a record, in the  
26 manner required by section 469.477, describing and proposing  
27 to take the action;



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28           (3) The fiduciary sends a copy of the notice under  
29 subdivision (2) of this subsection to each settlor of the  
30 trust that is:

31           (a) If an individual, living; or

32           (b) If not an individual, in existence;

33           (4) At least one member of each class of the qualified  
34 beneficiaries described under section 456.1-103 receiving  
35 the notice under subdivision (2) of this subsection is:

36           (a) If an individual, legally competent;

37           (b) If not an individual, in existence; or

38           (c) Represented in the manner provided in subsection 2  
39 of section 469.477; and

40           (5) The fiduciary does not receive, by the date  
41 specified in the notice under subdivision (5) of subsection  
42 4 of section 469.477, an objection in a record to the action  
43 proposed under subdivision (2) of this subsection from a  
44 person to which the notice under subdivision (2) of this  
45 subsection is sent.

46           3. If a fiduciary receives, not later than the date  
47 stated in the notice under subdivision (5) of subsection 4  
48 of section 469.477, an objection in a record described in  
49 subdivision (4) of subsection 4 of section 469.477 to a  
50 proposed action, the fiduciary or a beneficiary may request  
51 the court to have the proposed action taken as proposed,  
52 taken with modifications, or prevented. A person described  
53 in subsection 1 of section 469.477 may oppose the proposed  
54 action in the proceeding under this subsection, whether or  
55 not the person:

56           (1) Consented under subsection 3 of section 469.477; or

57           (2) Objected under subdivision (4) of subsection 4 of  
58 section 469.477.

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59           4. If, after sending a notice under subdivision (2) of  
60 subsection 2 of this section, a fiduciary decides not to  
61 take the action proposed in the notice, the fiduciary shall  
62 notify in a record each person described in subsection 1 of  
63 section 469.477 of the decision not to take the action and  
64 the reasons for the decision.

65           5. If a beneficiary requests in a record that a  
66 fiduciary take an action described in subsection 1 of this  
67 section and the fiduciary declines to act or does not act  
68 within ninety days after receiving the request, the  
69 beneficiary may request the court to direct the fiduciary to  
70 take the action requested.

71           6. In deciding whether and how to take an action  
72 authorized by subsection 1 of this section, or whether and  
73 how to respond to a request by a beneficiary under  
74 subsection 5 of this section, a fiduciary shall consider all  
75 factors relevant to the trust and the beneficiaries,  
76 including relevant factors in subsection 5 of section  
77 469.403.

78           7. A fiduciary may release or delegate the power to  
79 convert an income trust to a unitrust under subdivision (1)  
80 of subsection 1 of this section, change the percentage or  
81 method used to calculate a unitrust amount under subdivision  
82 (2) of subsection 1 of this section, or convert a unitrust  
83 to an income trust under subdivision (3) of subsection 1 of  
84 this section, for a reason described in subsection 7 of  
85 section 469.405 and in the manner described in subsection 8  
86 of section 469.405.

          469.477. 1. A notice required by subdivision (3) of  
2 subsection 2 of section 469.475 shall be sent in a manner  
3 authorized under section 456.1-109 to:

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4           (1) The qualified beneficiaries defined under section  
5 456.1-103;

6           (2) Each person acting as trust protector under  
7 section 456.8-808; and

8           (3) Each person that is granted a power over the trust  
9 by the terms of the trust, to the extent the power is  
10 exercisable when the person is not then serving as a trustee:

11           (a) Including a:

12           a. Power over the investment, management, or  
13 distribution of trust property or other matters of trust  
14 administration; and

15           b. Power to appoint or remove a trustee or person  
16 described in this paragraph; and

17           (b) Excluding a:

18           a. Power of appointment;

19           b. Power of a beneficiary over the trust, to the  
20 extent the exercise or nonexercise of the power affects the  
21 beneficial interest of the beneficiary or another  
22 beneficiary represented by the beneficiary under sections  
23 456.3-301 to 456.3-305 with respect to the exercise or  
24 nonexercise of the power; and

25           c. Power over the trust if the terms of the trust  
26 provide that the power is held in a nonfiduciary capacity  
27 and the power shall be held in a nonfiduciary capacity to  
28 achieve a tax objective under 26 U.S.C., as amended.

29           2. The representation provisions of sections 456.3-301  
30 to 456.3-305 apply to notice under this section.

31           3. A person may consent in a record at any time to  
32 action proposed under subdivision (2) of subsection 2 of  
33 section 469.475. A notice required by subdivision (2) of  
34 subsection 2 of section 469.475 need not be sent to a person  
35 that consents under this subsection.

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36           4. A notice required by subdivision (2) of subsection  
37 2 of section 469.475 shall include:

38           (1) The action proposed under subdivision (2) of  
39 subsection 2 of section 469.475;

40           (2) For a conversion of an income trust to a unitrust,  
41 a copy of the unitrust policy adopted under subdivision (1)  
42 of subsection 1 of section 469.475;

43           (3) For a change in the percentage or method used to  
44 calculate the unitrust amount, a copy of the unitrust policy  
45 or amendment or replacement of the unitrust policy adopted  
46 under subdivision (2) of subsection 1 of section 469.475;

47           (4) A statement that the person to which the notice is  
48 sent may object to the proposed action by stating in a  
49 record the basis for the objection and sending or delivering  
50 the record to the fiduciary;

51           (5) The date by which an objection under subdivision  
52 (4) of this subsection shall be received by the fiduciary,  
53 which shall be at least thirty days after the date the  
54 notice is sent;

55           (6) The date on which the action is proposed to be  
56 taken and the date on which the action is proposed to take  
57 effect;

58           (7) The name and contact information of the fiduciary;  
59 and

60           (8) The name and contact information of a person that  
61 may be contacted for additional information.

          469.479. 1. In administering a unitrust under  
2 sections 469.471 to 469.487, a fiduciary shall follow a  
3 unitrust policy adopted under subdivision (1) or (2) of  
4 subsection 1 of section 469.475 or amended or replaced under  
5 subdivision (2) of subsection 1 of section 469.475.

6           2. A unitrust policy shall provide:

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7           (1) The unitrust rate or the method for determining  
8 the unitrust rate under section 469.481;

9           (2) The method for determining the applicable value  
10 under section 469.483; and

11           (3) The rules described in sections 469.481 to 469.487  
12 that apply in the administration of the unitrust, whether  
13 the rules are:

14           (a) Mandatory, as provided in subsection 1 of section  
15 469.483 and subsection 1 of section 469.485; or

16           (b) Optional, as provided in section 469.481,  
17 subsection 2 of section 469.483, subsection 2 of section  
18 469.485, and subsection 1 of section 469.487, to the extent  
19 the fiduciary elects to adopt such rules.

          469.481. 1. Except as otherwise provided in  
2 subdivision (1) of subsection 2 of section 469.487, a  
3 unitrust rate may be:

4           (1) A fixed unitrust rate; or

5           (2) A unitrust rate that is determined for each period  
6 using:

7           (a) A market index or other published data; or

8           (b) A mathematical blend of market indices or other  
9 published data over a stated number of preceding periods.

10           2. Except as otherwise provided in subdivision (1) of  
11 subsection 2 of section 469.487, a unitrust policy may  
12 provide:

13           (1) A limit on how high the unitrust rate determined  
14 under subdivision (2) of subsection 1 of this section may  
15 rise;

16           (2) A limit on how low the unitrust rate determined  
17 under subdivision (2) of subsection 1 of this section may  
18 fall;

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19           (3) A limit on how much the unitrust rate determined  
20 under subdivision (2) of subsection 1 of this section may  
21 increase over the unitrust rate for the preceding period or  
22 a mathematical blend of unitrust rates over a stated number  
23 of preceding periods;

24           (4) A limit on how much the unitrust rate determined  
25 under subdivision (2) of subsection 1 of this section may  
26 decrease below the unitrust rate for the preceding period or  
27 a mathematical blend of unitrust rates over a stated number  
28 of preceding periods; or

29           (5) A mathematical blend of any of the unitrust rates  
30 determined under subdivision (2) of subsection 1 of this  
31 section and subdivisions (1) to (4) of this subsection.

          469.483. 1. A unitrust policy shall provide the  
2 method for determining the fair market value of an asset for  
3 the purpose of determining the unitrust amount, including:

4           (1) The frequency of valuing the asset, which need not  
5 require a valuation in every period; and

6           (2) The date for valuing the asset in each period in  
7 which the asset is valued.

8           2. Except as otherwise provided in subdivision (2) of  
9 subsection 2 of section 469.487, a unitrust policy may  
10 provide methods for determining the amount of the net fair  
11 market value of the trust to take into account in  
12 determining the applicable value, including:

13           (1) Obtaining an appraisal of an asset for which fair  
14 market value is not readily available;

15           (2) Exclusion of specific assets or groups or types of  
16 assets;

17           (3) Other exceptions or modifications of the treatment  
18 of specific assets or groups or types of assets;

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- 19           (4) Identification and treatment of cash or property  
20 held for distribution;
- 21           (5) Use of:
- 22           (a) An average of fair market values over a stated  
23 number of preceding periods; or
- 24           (b) Another mathematical blend of fair market values  
25 over a stated number of preceding periods;
- 26           (6) A limit on how much the applicable value of all  
27 assets, groups of assets, or individual assets may increase  
28 over:
- 29           (a) The corresponding applicable value for the  
30 preceding period; or
- 31           (b) A mathematical blend of applicable values over a  
32 stated number of preceding periods;
- 33           (7) A limit on how much the applicable value of all  
34 assets, groups of assets, or individual assets may decrease  
35 below:
- 36           (a) The corresponding applicable value for the  
37 preceding period; or
- 38           (b) A mathematical blend of applicable values over a  
39 stated number of preceding periods;
- 40           (8) The treatment of accrued income and other features  
41 of an asset that affect value; and
- 42           (9) Determining the liabilities of the trust,  
43 including treatment of liabilities to conform with the  
44 treatment of assets under subdivisions (1) to (8) of this  
45 subsection.

469.485. 1. A unitrust policy shall provide the  
2 period used under sections 469.481 and 469.483. Except as  
3 otherwise provided in subdivision (3) of subsection 2 of  
4 section 469.481, the period may be:

- 5           (1) A calendar year;

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6 (2) A twelve-month period other than a calendar year;

7 (3) A calendar quarter;

8 (4) A three-month period other than a calendar  
9 quarter; or

10 (5) Another period.

11 2. Except as otherwise provided in subsection 2 of  
12 section 469.487, a unitrust policy may provide standards for:

13 (1) Using fewer preceding periods under paragraph (b)  
14 of subdivision (2) of subsection 1 of section 469.481 or  
15 subdivision (3) or (4) of subsection 2 of section 469.481 if:

16 (a) The trust was not in existence in a preceding  
17 period; or

18 (b) Market indices or other published data are not  
19 available for a preceding period;

20 (2) Using fewer preceding periods under paragraph (a)  
21 or (b) of subdivision (5) of subsection 2 of section  
22 469.483, paragraph (b) of subdivision (6) of subsection 2 of  
23 section 469.483, or paragraph (b) of subdivision (7) of  
24 subsection 2 of section 469.483 if:

25 (a) The trust was not in existence in a preceding  
26 period; or

27 (b) Fair market values are not available for a  
28 preceding period; and

29 (3) Prorating the unitrust amount on a daily basis for  
30 a part of a period in which the trust or the administration  
31 of the trust as a unitrust or the interest of any  
32 beneficiary commences or terminates.

469.487. 1. A unitrust policy may:

2 (1) Provide methods and standards for:

3 (a) Determining the timing of distributions;

4 (b) Making distributions in cash or in kind or partly  
5 in cash and partly in kind; or



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6 (c) Correcting an underpayment or overpayment to a  
7 beneficiary based on the unitrust amount if there is an  
8 error in calculating the unitrust amount;

9 (2) Specify sources and the order of sources,  
10 including categories of income for federal income tax  
11 purposes, from which distributions of a unitrust amount are  
12 paid; or

13 (3) Provide other standards and rules the fiduciary  
14 determines serve the interests of the beneficiaries.

15 2. If a trust qualifies for a special tax benefit or a  
16 fiduciary is not an independent person:

17 (1) The unitrust rate established under section  
18 469.481 shall not be less than three percent or more than  
19 five percent;

20 (2) The only provisions of section 469.483 that apply  
21 are subsection 1 of section 469.483; subdivisions (1), (4),  
22 and (9) of subsection 2 of section 469.483; and paragraph  
23 (a) of subdivision (5) of subsection 2 of section 469.483;

24 (3) The only period that may be used under section  
25 469.485 is a calendar year under subdivision (1) of  
26 subsection 1 of section 469.485; and

27 (4) The only other provisions of section 469.485 that  
28 apply are paragraph (a) of subdivision (2) of subsection 2  
29 of section 469.485 and subdivision (3) of subsection 2 of  
30 section 469.485.

474.540. The provisions of sections 474.540 to 474.564  
2 shall be known and may be cited as the "Missouri Electronic  
3 Wills and Electronic Estate Planning Documents Act".

474.542. As used in sections 474.540 to 474.564, the  
2 following terms mean:

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3           (1) "Electronic", technology having electrical,  
4 digital, magnetic, wireless, optical, electromagnetic, or  
5 similar capabilities;

6           (2) "Electronic presence", the relationship of two or  
7 more individuals in different locations in real time using  
8 technology enabling live, interactive audio-visual  
9 communication that allows for observation, direct  
10 interaction, and communication between or among the  
11 individuals;

12           (3) "Electronic will", a will executed electronically  
13 in compliance with subsection 1 of section 474.548;

14           (4) "Record", information that is inscribed on a  
15 tangible medium or that is stored in an electronic or other  
16 medium and is retrievable in perceivable form;

17           (5) "Security procedure", a procedure to verify that  
18 an electronic signature, record, or performance is that of a  
19 specific person or to detect a change or error in an  
20 electronic record, including a procedure that uses an  
21 algorithm, code, identifying word or number, encryption, or  
22 callback or other acknowledgment procedure;

23           (6) "Sign", with present intent to authenticate or  
24 adopt a record to:

25           (a) Execute or adopt a tangible symbol; or

26           (b) Affix to or logically associate with the record an  
27 electronic symbol or process;

28           (7) "State", a state of the United States, the  
29 District of Columbia, Puerto Rico, the United States Virgin  
30 Islands, a federally recognized Indian tribe, or any  
31 territory or insular possession subject to the jurisdiction  
32 of the United States;

33           (8) "Will", a codicil and any testamentary instrument  
34 that appoints an executor, revokes or revises another will,

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35 nominates a guardian, or expressly excludes or limits the  
36 right of an individual or class to succeed to property of  
37 the decedent passing by intestate succession.

474.544. An electronic will shall be a will for all  
2 purposes of the laws of this state. The provisions of law  
3 of this state applicable to wills and principles of equity  
4 shall apply to an electronic will, except as modified by  
5 sections 474.540 to 474.564.

474.546. A will executed electronically but not in  
2 compliance with subsection 1 of section 474.548 shall be an  
3 electronic will under the provisions of sections 474.540 to  
4 474.564 if executed in compliance with the law of the  
5 jurisdiction where the testator is:

- 6 (1) Physically located when the will is signed; or
- 7 (2) Domiciled, or where the testator resides, when the  
8 will is signed or when the testator dies.

474.548. 1. An electronic will shall be:

- 2 (1) A record that is readable as text at the time of  
3 signing as provided in subdivision (2) of this subsection  
4 and remains accessible as text for later reference;
- 5 (2) Signed by:
  - 6 (a) The testator; or
  - 7 (b) Another individual in the testator's name, in the  
8 testator's physical presence, and by the testator's  
9 direction; and
- 10 (3) Signed in the physical or electronic presence of  
11 the testator by at least two individuals after witnessing:
  - 12 (a) The signing of the will pursuant to subdivision  
13 (2) of this subsection; or
  - 14 (b) The testator's acknowledgment of the signing of  
15 the will pursuant to subdivision (2) of this subsection or  
16 acknowledgment of the will.

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17           2. The intent of a testator that the record in  
18 subdivision (1) of subsection 1 of this section be the  
19 testator's electronic will may be established by extrinsic  
20 evidence.

21           3. In accordance with the provisions of sections  
22 474.337 or 474.550, a witness to a will shall be a resident  
23 of a state and physically located in a state at the time of  
24 signing if no self-proving affidavit is signed  
25 contemporaneously with the execution of the electronic will.

          474.550. At the time of its execution or at any  
2 subsequent date, an electronic will may be made self-proved  
3 in the same manner as specified in section 474.337 or, if  
4 fewer than two witnesses are physically present in the same  
5 location as the testator at the time of such  
6 acknowledgments, before a remote online notary authorized to  
7 perform a remote online notarization in this state under the  
8 law of any state or the United States, and evidenced by a  
9 remote online notarial certificate, in form and content  
10 substantially as follows, subject to the additional  
11 requirements under section 486.1165:

12           State of \_\_\_\_\_

13           County (and/or City) of \_\_\_\_\_

14           I, the undersigned notary, certify that \_\_\_\_\_, the  
15 testator, and the witnesses, whose names are  
16 signed to the attached or foregoing instrument,  
17 having personally appeared before me by remote  
18 online means, and having been first duly sworn,  
19 each then declared to me that the testator signed  
20 and executed the instrument as the testator's last  
21 will, and that the testator had willingly signed  
22 or willingly directed another to sign for the  
23 testator, and that the testator executed it as the  
24 testator's free and voluntary act for the purposes  
25 therein expressed; and that each of the witnesses,

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26 in the presence and hearing of the testator,  
 27 signed the will as witness and that to the best of  
 28 the witnesses' knowledge the testator was at that  
 29 time eighteen or more years of age, of sound mind,  
 30 and under no constraint or undue influence.

31 In witness thereof I have hereunto subscribed my  
 32 name and affixed my official seal this \_\_\_\_\_  
 33 (date).

34 \_\_\_\_\_ (official signature and seal  
 35 of notary)

474.552. 1. An electronic will may revoke all or part  
 2 of a previous will.

3 2. All or part of an electronic will shall be revoked  
 4 by:

5 (1) A subsequent will that revokes all or part of the  
 6 electronic will expressly or by inconsistency;

7 (2) A written instrument signed by the testator  
 8 declaring the revocation; or

9 (3) A physical act, if it is established by a  
 10 preponderance of the evidence that the testator, with the  
 11 intent of revoking all or part of the will, performed the  
 12 act or directed another individual who performed the act in  
 13 the testator's physical presence.

14 3. If there is evidence that a testator signed an  
 15 electronic will and neither the electronic will nor a  
 16 certified paper copy of the electronic will can be located  
 17 after a testator's death, there shall be a presumption that  
 18 the testator revoked the electronic will even if no  
 19 instrument or later will revoking the electronic will can be  
 20 located.

474.554. Without further notice, at any time during  
 2 the administration of the estate or, if there is no grant of

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3 administration, upon such notice and in such manner as the  
4 court directs, the court may issue an order pursuant to  
5 sections 472.400 to 472.490 for a custodian of an account  
6 held under a terms-of-service agreement to disclose digital  
7 assets for the purposes of obtaining an electronic will from  
8 the account of a deceased user. If there is no grant of  
9 administration at the time the court issues the order, the  
10 court's order shall grant disclosure to the petitioner who  
11 is deemed a personal representative under sections 472.400  
12 to 472.490.

474.556. 1. An individual may create a certified  
2 paper copy of an electronic will by affirming under penalty  
3 of perjury that a paper copy of the electronic will is a  
4 complete, true, and accurate copy of the electronic will.  
5 If the electronic will is made self-proving, the certified  
6 paper copy of the will shall include a self-proving  
7 affidavit as provided in sections 474.337 or 474.550.

8 2. If a provision of law or rule of procedure requires  
9 a will to be presented or retained in its original form or  
10 provides consequences for the information not being  
11 presented or retained in its original form, that provision  
12 or rule shall be satisfied by a certified paper copy of an  
13 electronic will.

474.558. In applying and construing the provisions of  
2 sections 474.540 to 474.564, consideration shall be given to  
3 the need to promote uniformity of the law with respect to  
4 its subject matter among states that enact similar  
5 provisions.

474.560. 1. Any written estate planning document may  
2 be executed electronically, and no such estate planning  
3 document shall be invalid or void solely because it is in  
4 electronic form or because it is signed electronically by a

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5 settlor, trustee, principal, grantor, declarant, or owner,  
6 or by a witness to any such person's signature. For  
7 purposes of this section, "estate planning document" shall  
8 include, but not be limited to:

- 9 (1) A power of attorney or durable power of attorney;
- 10 (2) A health care declaration;
- 11 (3) An advance directive;
- 12 (4) A power of attorney for health care or durable  
13 power of attorney for health care;
- 14 (5) A revocable trust or amendment thereto, or  
15 modification or revocation thereof;
- 16 (6) An irrevocable trust;
- 17 (7) A beneficiary deed;
- 18 (8) A nonprobate transfer; or
- 19 (9) A document modifying, amending, correcting, or  
20 revoking any written estate planning document.

21 2. (1) An electronic estate planning document or an  
22 electronic signature on such document shall be attributable  
23 to a person if it was the act of the person. The act of the  
24 person may be shown in any manner, including a showing of  
25 the efficacy of a security procedure applied to determine  
26 the person to which the electronic record or signature was  
27 attributable.

28 (2) The effect of attribution of a document or  
29 signature to a person pursuant to subdivision (1) of this  
30 subsection shall be determined from the context and  
31 surrounding circumstances at the time of its creation,  
32 execution, or adoption and as provided by other provisions  
33 of law.

34 3. (1) Unless otherwise provided under its terms, any  
35 electronic estate planning document may be signed in one or  
36 more counterparts, and each separate counterpart may be an

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37 electronic document or a paper document, provided that all  
38 signed counterpart pages of each document are incorporated  
39 into, or attached to, the document.

40 (2) An individual may create a certified paper copy of  
41 any such electronic estate planning document by affirming  
42 under penalty of perjury that a paper copy of the electronic  
43 estate planning document is a complete, true, and accurate  
44 copy of such document. If a provision of law or a rule of  
45 procedure requires an estate planning document to be  
46 presented or retained in its original form or provides  
47 consequences for the information not being presented or  
48 retained in its original form, such provision or rule shall  
49 be satisfied by a certified paper copy of an electronic  
50 document.

51 4. Any written estate planning document, other than a  
52 will, that requires one or more witnesses to the signature  
53 of a principal may be witnessed by any individual or  
54 individuals in the electronic presence of the principal.

55 5. A person who acts in reliance upon an  
56 electronically executed written estate planning document  
57 shall not be liable to any person for so relying and may  
58 assume without inquiry the valid execution of the  
59 electronically executed written estate planning document.

60 6. This section does not require a written estate  
61 planning document to be electronically signed.

62 7. The laws of this state and principles of equity  
63 applicable to any estate planning document shall apply to  
64 any electronic estate planning document except as modified  
65 by this section.

474.562. The provisions of sections 474.540 to 474.564  
2 modify, limit, and supersede the federal Electronic  
3 Signatures in Global and National Commerce Act, 15 U.S.C.



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4 Section 7001 et seq., but do not modify, limit, or supersede  
5 Section 101(c) of that act, 15 U.S.C. Section 7001(c), or  
6 authorize electronic delivery of any of the notices  
7 described in Section 103(b) of that act, 15 U.S.C. Section  
8 7003(b).

474.564. The provisions of sections 474.540 to 474.564  
2 shall apply to any will of a decedent who dies on or after  
3 August 28, 2024, and to any other written estate planning  
4 document, as the term "estate planning document" is defined  
5 in section 474.560, signed or remotely witnessed on or after  
6 August 28, 2024.

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

3 (1) "Applicable state of emergency", the period  
4 between April 6, 2020, and December 31, 2021, during which a  
5 state of emergency existed due to a COVID-19 public health  
6 threat, as proclaimed by the governor, and during which  
7 executive orders 20-08, 20-10, 20-12, 20-14, 20-19, 21-07,  
8 and 21-09 temporarily suspended the physical appearance  
9 requirements in this chapter and authorized the use of audio-  
10 visual technology to the extent that any Missouri statute  
11 required the physical presence of any testator, settlor,  
12 principal, witness, notary, or other person necessary for  
13 the effective execution of any estate planning document such  
14 as a will, trust, or power of attorney, or a self-proving  
15 affidavit of the execution of such document, if the  
16 conditions set forth in the executive orders were met;

17 (2) "Estate planning document", includes, but is not  
18 limited to:

19 (a) A will;

20 (b) A codicil;

21 (c) A power of attorney or durable power of attorney;

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- 22           (d) A health care declaration;
- 23           (e) An advance directive;
- 24           (f) A power of attorney for health care or a durable  
25 power of attorney for health care;
- 26           (g) A revocable trust or amendment thereto, or  
27 modification or revocation thereof;
- 28           (h) An irrevocable trust;
- 29           (i) A beneficiary deed;
- 30           (j) A nonprobate transfer; or
- 31           (k) A document modifying, amending, correcting, or  
32 revoking any written estate planning document;
- 33           (3) "Necessary person", any testator, settlor,  
34 grantor, principal, declarant, witness, notary, or other  
35 person required for the effective execution of any estate  
36 planning document in this state;
- 37           (4) "Physical presence requirement", includes, but is  
38 not limited to, any requirement of physical presence under  
39 section 404.705, 459.015, 474.320, or 474.337 or chapter 486.
- 40           2. With respect to the execution of an estate planning  
41 document, a necessary person shall be deemed to have  
42 satisfied any physical presence requirement under Missouri  
43 law during the applicable state of emergency if the  
44 following requirements were met:
- 45           (1) The signer affirmatively represented that the  
46 signer was physically situated in the state of Missouri;
- 47           (2) The notary was physically located in the state of  
48 Missouri and stated in which county the notary was  
49 physically located for the jurisdiction on the  
50 acknowledgment;
- 51           (3) The notary identified the signers to the  
52 satisfaction of the notary and Missouri law;

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53           (4) Any person whose signature was required appeared  
 54 using video conference software where live, interactive  
 55 audio-visual communication between the principal, notary,  
 56 and any other necessary person allowed for observation,  
 57 direct interaction, and communication at the time of  
 58 signing; and

59           (5) The notary recorded in the notary's journal the  
 60 exact time and means used to perform the notarial act, along  
 61 with all other required information, absent the wet  
 62 signatures.

63           3. The requirements of subdivisions (1) to (5) of  
 64 subsection 2 of this section shall be deemed satisfied if an  
 65 attorney who is licensed or authorized to practice law in  
 66 Missouri and who was present at the remote execution signs a  
 67 written acknowledgment made before an officer authorized to  
 68 administer oaths under the laws of this state, and evidenced  
 69 by the officer's certificate, under official seal, affixed  
 70 to or logically associated with the acknowledgment. The  
 71 form and content of the acknowledgment shall be  
 72 substantially as follows:

73           State of \_\_\_\_\_

74           County of \_\_\_\_\_

75                           AFFIDAVIT OF REMOTE EXECUTION OF DOCUMENTS

76           I, \_\_\_\_\_, am an attorney licensed or  
 77 authorized to practice law in the state of  
 78 Missouri.

79           On \_\_\_\_\_ (date), I convened with the following  
 80 individuals via video conference software that  
 81 allowed for live, interactive audio-visual  
 82 communication between the parties to the conference  
 83 and that also allowed for observation, direction,  
 84 interaction, and communication between:

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85 \_\_\_\_\_, the (testator, settlor, grantor,  
86 principal, or declarant);

87 \_\_\_\_\_, a witness;

88 \_\_\_\_\_, a second witness; and

89 \_\_\_\_\_, a notary public.

90 During the conference, \_\_\_\_\_, the (testator,  
91 settlor, grantor, principal, or declarant) signed  
92 the following estate planning document or  
93 documents: (a will, codicil, power of attorney,  
94 durable power of attorney, health care declaration,  
95 advance directive, health care power of attorney,  
96 revocable trust, irrevocable trust, beneficiary  
97 deed, nonprobate transfer, self-proving affidavit  
98 of the execution of a will, or a document  
99 modifying, amending, correcting, or revoking one of  
100 these estate planning documents).

101 All the parties to the conference represented that  
102 they were physically located in the state of  
103 Missouri at the time of the signing.

104 I have reviewed and am familiar with the  
105 requirements of the applicable executive order or  
106 orders in effect at the time and affirm that the  
107 remote execution of the estate planning document or  
108 documents met all the requirements of the  
109 applicable executive order or orders.

110 In witness whereof I, an officer authorized to  
111 administer oaths, have hereunto subscribed my name  
112 and affixed my official seal this \_\_\_\_\_ (date).

113 (Signed) \_\_\_\_\_

114 (SEAL) \_\_\_\_\_

115 (Official capacity of officer)

475.063. 1. The parent, physical custodian, or  
2 guardian of a minor that has a diagnosed developmental  
3 disability or intellectual disability as defined in section  
4 630.005 may file a petition and an affidavit for emergency,

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5 temporary, or full orders regarding appointment of the  
6 parent, physical custodian, guardian, or some other  
7 qualified person as guardian of the minor upon the minor  
8 attaining the age of eighteen. Such affidavit shall state  
9 that:

10 (1) The affiant is the parent, physical custodian, or  
11 guardian of the minor;

12 (2) A treating doctor has certified by letter, report,  
13 or affidavit that the minor has a diagnosed developmental  
14 disability or intellectual disability as defined in section  
15 630.005, and the letter, report, or affidavit is attached to  
16 the affidavit. This shall not include a mental disorder or  
17 mental illness as defined in section 630.005;

18 (3) The minor has not yet attained the age of eighteen;

19 (4) No petition for adult guardianship or  
20 conservatorship, filed pursuant to section 475.060, has been  
21 filed in the court in which the affidavit is filed or in any  
22 other court having jurisdiction over the minor; and

23 (5) The affiant is not aware of an objection by an  
24 interested person to the appointment of the parent, physical  
25 custodian, guardian, or some other qualified person as  
26 guardian of the minor upon the minor attaining the age of  
27 eighteen.

28 2. If the court finds the affidavit fails to meet one  
29 or more of the criteria set forth in subsection 1 of this  
30 section, or if good cause is shown by the attorney for the  
31 minor or ward, the court may enter an order appointing an  
32 attorney to represent the affiant.

33 3. (1) A clerk of a court shall make available to the  
34 petitioner the affidavit and other uniform forms adopted by  
35 the Missouri supreme court for a proceeding under this  
36 section.

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37           (2) Except as otherwise provided by law, a clerk under  
38 the supervision of a circuit clerk shall explain to a  
39 petitioner who is not represented by counsel the procedures  
40 for filing all forms and pleadings necessary for the  
41 presentation of the petitioner's petition under this  
42 section. The performance of duties prescribed in this  
43 section shall not constitute the practice of law as defined  
44 in section 484.010.

45           (3) All duties of the clerk prescribed in this section  
46 shall be performed without cost to the petitioner. The  
47 supreme court of Missouri may promulgate rules as necessary  
48 to govern conduct of a court clerk under this chapter and  
49 provide forms for petitions and written instructions on  
50 completing all forms and pleadings necessary for the  
51 presentation of the petition to the court.

52           4. The court shall accept and act upon a petition  
53 filed under this section without requiring a filing fee.  
54 Any expenses incurred under this section for attorney's fees  
55 for the attorney of the minor or ward may be reimbursed from  
56 moneys deposited into a family services and justice fund  
57 under section 488.2300.

58           5. For purposes of this section, "physical custodian"  
59 means an adult having continuous physical custody of a minor  
60 entering adult guardianship or conservatorship for the six  
61 months prior to the filing of an affidavit under subsection  
62 1 of this section.

          476.1025. A parent, spouse, child, or personal  
2 representative of a person who was convicted of a  
3 misdemeanor offense may file a motion with the court in  
4 which the person was convicted to have the record of such  
5 offense made confidential in any automated case management  
6 system if such person has been deceased for six months or

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7 more. Upon such motion accompanied by a copy of the death  
8 certificate of the deceased person, the court shall make the  
9 case confidential. Prior to making the case confidential,  
10 the court shall determine whether any person would be  
11 unfairly prejudiced by making such record confidential in  
12 any automated case management system.

477.650. 1. There is hereby created in the state  
2 treasury the "Basic Civil Legal Services Fund", to be  
3 administered by, or under the direction of, the Missouri  
4 supreme court. All moneys collected under section 488.031  
5 shall be credited to the fund. In addition to the court  
6 filing surcharges, funds from other public or private  
7 sources also may be deposited into the fund and all earnings  
8 of the fund shall be credited to the fund. The purpose of  
9 this section is to increase the funding available for basic  
10 civil legal services to eligible low-income persons as such  
11 persons are defined by the Federal Legal Services  
12 Corporation's Income Eligibility Guidelines.

13 2. Funds in the basic civil legal services fund shall  
14 be allocated annually and expended to provide legal  
15 representation to eligible low-income persons in the state  
16 in civil matters. Moneys, funds, or payments paid to the  
17 credit of the basic civil legal services fund shall, at  
18 least as often as annually, be distributed to the legal  
19 services organizations in this state which qualify for  
20 Federal Legal Services Corporation funding. The funds so  
21 distributed shall be used by legal services organizations in  
22 this state solely to provide legal services to eligible low-  
23 income persons as such persons are defined by the Federal  
24 Legal Services Corporation's Income Eligibility Guidelines.  
25 Fund money shall be subject to all restrictions imposed on  
26 such legal services organizations by law. Funds shall be

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27 allocated to the programs according to the funding formula  
28 employed by the Federal Legal Services Corporation for the  
29 distribution of funds to this state. Notwithstanding the  
30 provisions of section 33.080, any balance remaining in the  
31 basic civil legal services fund at the end of any year shall  
32 not be transferred to the state's general revenue fund.  
33 Moneys in the basic civil legal services fund shall not be  
34 used to pay any portion of a refund mandated by Article X,  
35 Section [15] 18 of the Missouri Constitution. State legal  
36 services programs shall represent individuals to secure  
37 lawful state benefits, but shall not sue the state, its  
38 agencies, or its officials, with any state funds.

39 3. Contracts for services with state legal services  
40 programs shall provide eligible low-income Missouri citizens  
41 with equal access to the civil justice system, with a high  
42 priority on families and children, domestic violence, the  
43 elderly, and qualification for benefits under the Social  
44 Security Act. State legal services programs shall abide by  
45 all restrictions, requirements, and regulations of the Legal  
46 Services Corporation regarding their cases.

47 4. The Missouri supreme court, or a person or  
48 organization designated by the court, is the administrator  
49 and shall administer the fund in such manner as determined  
50 by the Missouri supreme court, including in accordance with  
51 any rules and policies adopted by the Missouri supreme court  
52 for such purpose. Moneys from the fund shall be used to pay  
53 for the collection of the fee and the implementation and  
54 administration of the fund.

55 5. Each recipient of funds from the basic civil legal  
56 services fund shall maintain appropriate records accounting  
57 for the receipt and expenditure of all funds distributed and  
58 received pursuant to this section. These records must be



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59 maintained for a period of five years from the close of the  
60 fiscal year in which such funds are distributed or received  
61 or until audited, whichever is sooner. All funds  
62 distributed or received pursuant to this section are subject  
63 to audit by the Missouri supreme court or the state auditor.

64 6. The Missouri supreme court, or a person or  
65 organization designated by the court, shall, by January  
66 thirty-first of each year, report to the general assembly on  
67 the moneys collected and disbursed pursuant to this section  
68 and section 488.031 by judicial circuit.

69 [7. The provisions of this section shall expire on  
70 December 31, 2025.]

478.001. 1. For purposes of sections 478.001 to  
2 478.009, the following terms shall mean:

3 (1) "Adult treatment court", a treatment court focused  
4 on addressing the substance use disorder or co-occurring  
5 disorder of defendants charged with a criminal offense;

6 (2) "Community-based substance use disorder treatment  
7 program", an agency certified by the department of mental  
8 health as a substance use disorder treatment provider;

9 (3) "Co-occurring disorder", the coexistence of both a  
10 substance use disorder and a mental health disorder;

11 (4) "DWI court", a treatment court focused on  
12 addressing the substance use disorder or co-occurring  
13 disorder of defendants who have pleaded guilty to or been  
14 found guilty of driving while intoxicated or driving with  
15 excessive blood alcohol content;

16 (5) "Family treatment court", a treatment court  
17 focused on addressing a substance use disorder or co-  
18 occurring disorder existing in families in the juvenile  
19 court, family court, or criminal court in which a parent or  
20 other household member has been determined to have a

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21 substance use disorder or co-occurring disorder that impacts  
22 the safety and well-being of the children in the family;

23 (6) "Juvenile treatment court", a treatment court  
24 focused on addressing the substance use disorder or co-  
25 occurring disorder of juveniles in the juvenile court;

26 (7) "Medication-assisted treatment", the use of  
27 pharmacological medications, in combination with counseling  
28 and behavioral therapies, to provide a whole-patient  
29 approach to the treatment of substance use disorders;

30 (8) **"Mental health court", a treatment court focused**  
31 **on addressing the mental health disorder or co-occurring**  
32 **disorder of defendants charged with a criminal offense;**

33 (9) "Mental health disorder", any organic, mental, or  
34 emotional impairment that has substantial adverse effects on  
35 a person's cognitive, volitional, or emotional function and  
36 that constitutes a substantial impairment in a person's  
37 ability to participate in activities of normal living;

38 [(9)] (10) "Risk and needs assessment", an actuarial  
39 tool, approved by the treatment courts coordinating  
40 commission and validated on a targeted population of drug-  
41 involved adult offenders, scientifically proven to determine  
42 a person's risk to recidivate and to identify criminal risk  
43 factors that, when properly addressed, can reduce that  
44 person's likelihood of committing future criminal behavior;

45 [(10)] (11) "Substance use disorder", the recurrent  
46 use of alcohol or drugs that causes clinically significant  
47 impairment, including health problems, disability, and  
48 failure to meet major responsibilities at work, school, or  
49 home;

50 [(11)] (12) "Treatment court commissioner", a person  
51 appointed by a majority of the circuit and associate circuit

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52 judges in a circuit to preside as the judicial officer in  
53 the treatment court division;

54 [(12)] (13) "Treatment court division", a specialized,  
55 nonadversarial court division with jurisdiction over cases  
56 involving substance-involved offenders and making extensive  
57 use of comprehensive supervision, drug or alcohol testing,  
58 and treatment services. Treatment court divisions include,  
59 but are not limited to, the following specialized courts:  
60 adult treatment court, DWI court, family treatment court,  
61 juvenile treatment court, **mental health court**, veterans  
62 treatment court, or any combination thereof;

63 [(13)] (14) "Treatment court team", the following  
64 members who are assigned to the treatment court: the judge  
65 or treatment court commissioner, treatment court  
66 administrator or coordinator, prosecutor, public defender or  
67 member of the criminal defense bar, a representative from  
68 the division of probation and parole, a representative from  
69 law enforcement, substance use disorder **or mental health**  
70 **disorder** treatment providers, and any other person selected  
71 by the treatment court team;

72 [(14)] (15) "Veterans treatment court", a treatment  
73 court focused on substance use disorders, co-occurring  
74 disorders, or mental health disorders of defendants charged  
75 with a criminal offense who are military veterans or current  
76 military personnel.

77 2. A treatment court division shall be established,  
78 prior to August 28, 2021, by any circuit court pursuant to  
79 sections 478.001 to 478.009 to provide an alternative for  
80 the judicial system to dispose of cases which stem from, or  
81 are otherwise impacted by, a substance use **disorder or**  
82 **mental health disorder**. The treatment court division may  
83 include, but not be limited to, cases assigned to an adult

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84 treatment court, DWI court, family treatment court, juvenile  
85 treatment court, **mental health court**, veterans treatment  
86 court, or any combination thereof. A treatment court shall  
87 combine judicial supervision, drug or alcohol testing, and  
88 treatment of participants. Except for good cause found by  
89 the court, a treatment court making a referral for substance  
90 use disorder **or mental health disorder** treatment, when such  
91 program will receive state or federal funds in connection  
92 with such referral, shall refer the person only to a program  
93 which is certified by the department of mental health,  
94 unless no appropriate certified treatment program is located  
95 within the same county as the treatment court. Upon  
96 successful completion of the treatment court program, the  
97 charges, petition, or penalty against a treatment court  
98 participant may be dismissed, reduced, or modified, unless  
99 otherwise stated. Any fees received by a court from a  
100 defendant as payment for substance **or mental health**  
101 treatment programs shall not be considered court costs,  
102 charges or fines.

103 3. An adult treatment court may be established by any  
104 circuit court [under sections 478.001 to 478.009] to provide  
105 an alternative for the judicial system to dispose of cases  
106 which stem from substance use.

107 4. [Under sections 478.001 to 478.009,] A DWI court  
108 may be established by any circuit court to provide an  
109 alternative for the judicial system to dispose of cases that  
110 stem from driving while intoxicated.

111 5. A family treatment court may be established by any  
112 circuit court. The juvenile division of the circuit court  
113 or the family court, if one is established under section  
114 487.010, may refer one or more parents or other household  
115 members subject to its jurisdiction to the family treatment

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116 court if he or she has been determined to have a substance  
117 use disorder or co-occurring disorder that impacts the  
118 safety and well-being of the children in the family.

119 6. A juvenile treatment court may be established by  
120 the juvenile division of any circuit court. The juvenile  
121 division may refer a juvenile to the juvenile treatment  
122 court if the juvenile is determined to have committed acts  
123 that violate the criminal laws of the state or ordinances of  
124 a municipality or county and a substance use disorder or co-  
125 occurring disorder contributed to the commission of the  
126 offense.

127 7. The general assembly finds and declares that it is  
128 the public policy of this state to encourage and provide an  
129 alternative method for the disposal of cases for military  
130 veterans and current military personnel with substance use  
131 disorders, mental health disorders, or co-occurring  
132 disorders. In order to effectuate this public policy, a  
133 veterans treatment court may be established by any circuit  
134 court, or combination of circuit courts upon agreement of  
135 the presiding judges of such circuit courts, to provide an  
136 alternative for the judicial system to dispose of cases that  
137 stem from a substance use disorder, mental health disorder,  
138 or co-occurring disorder of military veterans or current  
139 military personnel. A veterans treatment court shall  
140 combine judicial supervision, drug or alcohol testing, and  
141 substance use and mental health disorder treatment to  
142 participants who have served or are currently serving the  
143 United States Armed Forces, including members of the  
144 Reserves or National Guard, with preference given to  
145 individuals who have combat service. For the purposes of  
146 this section, combat service shall be shown through military  
147 service documentation that reflects service in a combat

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148 theater, receipt of combat service medals, or receipt of  
149 imminent danger or hostile fire pay or tax benefits. Except  
150 for good cause found by the court, a veterans treatment  
151 court shall make a referral for substance use or mental  
152 health disorder treatment, or a combination of substance use  
153 and mental health disorder treatment, through the Department  
154 of Defense health care, the Veterans Administration, or a  
155 community-based substance use disorder treatment program.  
156 Community-based programs utilized shall receive state or  
157 federal funds in connection with such referral and shall  
158 only refer the individual to a program certified by the  
159 department of mental health, unless no appropriate certified  
160 treatment program is located within the same circuit as the  
161 veterans treatment court.

162 **8. A mental health court may be established by any**  
163 **circuit court to provide an alternative for the judicial**  
164 **system to dispose of cases that stem from a mental health**  
165 **disorder or co-occurring disorder.**

487.110. The uniform child custody jurisdiction **and**  
2 **enforcement** act, as enacted in sections [452.440 to 452.550]  
3 **452.700 to 452.930**, shall apply to all **child** custody  
4 proceedings, **as defined in section 452.705**, in the family  
5 court.

488.040. [1.] Each grand and petit juror shall[,  
2 pursuant to the provisions of section 494.455, receive six  
3 dollars per day for every day he or she may actually serve  
4 as such and seven cents for every mile he or she may  
5 necessarily travel going from his or her place of residence  
6 to the courthouse and returning, to be paid from funds of  
7 the county or a city not within a county.

8 **2. Provided that a county or a city not within a**  
9 **county authorizes daily compensation payable from county or**

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10 city funds for jurors who serve in that county pursuant to  
11 subsection 3 of this section in the amount of at least six  
12 dollars per day in addition to the amount required by  
13 subsection 1 of this section, a person shall receive an  
14 additional six dollars per day, pursuant to the provisions  
15 of section 494.455, to be reimbursed by the state of  
16 Missouri so that the total compensation payable shall be at  
17 least eighteen dollars, plus mileage as indicated in  
18 subsection 1 of this section, for each day that the person  
19 actually serves as a petit juror in a particular case; or  
20 for each day that a person actually serves as a grand juror  
21 during a term of a grand jury. The state shall reimburse  
22 the county for six dollars of the additional juror  
23 compensation provided by this subsection.

24 3. The governing body of each county or a city not  
25 within a county may authorize additional daily compensation  
26 and mileage allowance for jurors, which additional  
27 compensation shall be paid from the funds of the county or a  
28 city not within a county. The governing body of each county  
29 or a city not within a county may authorize additional daily  
30 compensation and mileage allowance for jurors attending a  
31 coroner's inquest. Jurors may receive the additional  
32 compensation and mileage allowance authorized by this  
33 subsection only if the governing body of the county or the  
34 city not within a county authorizes the additional  
35 compensation. The provisions of this subsection authorizing  
36 additional compensation shall terminate upon the issuance of  
37 a mandate by the Missouri supreme court which results in the  
38 state of Missouri being obligated or required to pay any  
39 such additional compensation even if such additional  
40 compensation is formally approved or authorized by the  
41 governing body of a county or a city not within a county.

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42 4. When each panel of jurors summoned and attending  
43 court has completed its service, the board of jury  
44 commissioners shall cause to be submitted to the governing  
45 body of the county or a city not within a county a statement  
46 of fees earned by each juror. Within thirty days of the  
47 submission of the statement of fees, the governing body  
48 shall cause payment to be made to those jurors summoned the  
49 fees earned during their service as jurors] **receive daily**  
50 **compensation and mileage allowance in the amount provided by**  
51 **law pursuant to section 494.455.**

488.426. 1. The judges of the circuit court, en banc,  
2 in any circuit in this state may require any party filing a  
3 civil case in the circuit court, at the time of filing the  
4 suit, to deposit with the clerk of the court a surcharge in  
5 addition to all other deposits required by law or court  
6 rule. Sections 488.426 to 488.432 shall not apply to  
7 proceedings when costs are waived or are to be paid by the  
8 county or state or any city.

9 2. The surcharge in effect on August 28, 2001, shall  
10 remain in effect until changed by the circuit court. The  
11 circuit court in any circuit, except the circuit court in  
12 Jackson County, **the circuit court in the city of St. Louis,**  
13 or the circuit court in any circuit that reimburses the  
14 state for the salaries of family court commissioners under  
15 and pursuant to section 487.020, may change the fee to any  
16 amount not to exceed fifteen dollars. The circuit court in  
17 Jackson County, **the circuit court in the city of St. Louis,**  
18 or the circuit court in any circuit that reimburses the  
19 state for the salaries of family court commissioners under  
20 and pursuant to section 487.020 may change the fee to any  
21 amount not to exceed twenty dollars. A change in the fee



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22 shall become effective and remain in effect until further  
23 changed.

24 3. Sections 488.426 to 488.432 shall not apply to  
25 proceedings when costs are waived or are paid by the county  
26 or state or any city.

27 [4. In addition to any fee authorized by subsection 1  
28 of this section, any county of the first classification with  
29 more than one hundred one thousand but fewer than one  
30 hundred fifteen thousand inhabitants may impose an  
31 additional fee of ten dollars excluding cases concerning  
32 adoption and those in small claims court. The provisions of  
33 this subsection shall expire on December 31, 2019.]

488.2300. 1. A "Family Services and Justice Fund" is  
2 hereby established in each county or circuit with a family  
3 court, for the purpose of aiding with the operation of the  
4 family court divisions and services provided by those  
5 divisions. In circuits or counties having a family court,  
6 the circuit clerk shall charge and collect a surcharge of  
7 thirty dollars in all proceedings falling within the  
8 jurisdiction of the family court. The surcharge shall not  
9 be charged when no court costs are otherwise required, shall  
10 not be charged against the petitioner for actions filed  
11 pursuant to the provisions of chapter 455, but may be  
12 charged to the respondent in such actions, shall not be  
13 charged to a government agency and shall not be charged in  
14 any proceeding when costs are waived or are to be paid by  
15 the state, county or municipality.

16 2. In juvenile proceedings under chapter 211, a  
17 judgment of up to thirty dollars may be assessed against the  
18 child, parent or custodian of the child, in addition to  
19 other amounts authorized by law, in informal adjustments  
20 made under the provisions of sections 211.081 and 211.083,

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21 and in an order of disposition or treatment under the  
22 provisions of section 211.181. The judgment may be ordered  
23 paid to the clerk of the circuit where the assessment is  
24 imposed.

25 3. All sums collected pursuant to this section and  
26 section 487.140 shall be payable to the various county  
27 family services and justice funds.

28 4. **Nothing in this section prohibits the general**  
29 **assembly from appropriating moneys into the various county**  
30 **family services and justice funds to be expended for the**  
31 **purposes provided for in this section.**

32 5. Any moneys in the family services and justice fund  
33 not expended for salaries of commissioners, family court  
34 administrators and family court staff shall be used toward  
35 funding the enhanced services provided as a result of the  
36 establishment of a family court; however, it shall not  
37 replace or reduce the current and ongoing responsibilities  
38 of the counties to provide funding for the courts as  
39 required by law. Moneys collected for the family services  
40 and justice fund shall be expended for the benefit of  
41 litigants and recipients of services in the family court,  
42 with priority given to **fees incurred under subsection 5 or 7**  
43 **of section 475.075 or expenses incurred under section**  
44 **475.063, and to** services such as guardians ad litem,  
45 mediation, counseling, home studies, psychological  
46 evaluation and other forms of alternative dispute-resolution  
47 services. Expenditures shall be made at the discretion of  
48 the presiding judge or family court administrative judge, as  
49 designated by the circuit and associate circuit judges en  
50 banc, for the implementation of the family court system as  
51 set forth in this section. No moneys from the family

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52 services and justice fund may be used to pay for mediation  
53 in any cause of action in which domestic violence is alleged.

54 [5.] 6. From the funds collected pursuant to this  
55 section and retained in the family services and justice  
56 fund, each circuit or county in which a family court  
57 commissioner in addition to those commissioners existing as  
58 juvenile court commissioners on August 28, 1993, have been  
59 appointed pursuant to sections 487.020 to 487.040 shall pay  
60 to and reimburse the state for the actual costs of that  
61 portion of the salaries of family court commissioners  
62 appointed pursuant to the provisions of sections 487.020 to  
63 487.040.

64 [6.] 7. No moneys deposited in the family services and  
65 justice fund may be expended for capital improvements.

491.075. 1. A statement made by a child under the age  
2 of [fourteen] **eighteen**, or a vulnerable person, relating to  
3 an offense under chapter 565, 566, 568 or 573, performed by  
4 another, not otherwise admissible by statute or court rule,  
5 is admissible in evidence in criminal proceedings in the  
6 courts of this state as substantive evidence to prove the  
7 truth of the matter asserted if:

8 (1) The court finds, in a hearing conducted outside  
9 the presence of the jury that the time, content and  
10 circumstances of the statement provide sufficient indicia of  
11 reliability; and

12 (2) (a) The child or vulnerable person testifies at  
13 the proceedings; or

14 (b) The child or vulnerable person is unavailable as a  
15 witness; or

16 (c) The child or vulnerable person is otherwise  
17 physically available as a witness but the court finds that  
18 the significant emotional or psychological trauma which

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19 would result from testifying in the personal presence of the  
20 defendant makes the child or vulnerable person unavailable  
21 as a witness at the time of the criminal proceeding.

22 2. Notwithstanding subsection 1 of this section or any  
23 provision of law or rule of evidence requiring corroboration  
24 of statements, admissions or confessions of the defendant,  
25 and notwithstanding any prohibition of hearsay evidence, a  
26 statement by a child when under the age of **[fourteen]**  
27 **eighteen**, or a vulnerable person, who is alleged to be  
28 victim of an offense under chapter 565, 566, 568 or 573 is  
29 sufficient corroboration of a statement, admission or  
30 confession regardless of whether or not the child or  
31 vulnerable person is available to testify regarding the  
32 offense.

33 3. A statement may not be admitted under this section  
34 unless the prosecuting attorney makes known to the accused  
35 or the accused's counsel his or her intention to offer the  
36 statement and the particulars of the statement sufficiently  
37 in advance of the proceedings to provide the accused or the  
38 accused's counsel with a fair opportunity to prepare to meet  
39 the statement.

40 4. Nothing in this section shall be construed to limit  
41 the admissibility of statements, admissions or confessions  
42 otherwise admissible by law.

43 5. For the purposes of this section, "vulnerable  
44 person" shall mean a person who, as a result of an  
45 inadequately developed or impaired intelligence or a  
46 psychiatric disorder that materially affects ability to  
47 function, lacks the mental capacity to consent, or whose  
48 developmental level does not exceed that of an ordinary  
49 child of **[fourteen]** **seventeen** years of age.

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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

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32           (7) The defendant or the attorney for the defendant is  
33 afforded an opportunity to view the recording before it is  
34 offered into evidence.

35           2. If the child **or vulnerable person** does not testify  
36 at the proceeding, the visual and aural recording of a  
37 verbal or nonverbal statement of the child **or vulnerable**  
38 **person** shall not be admissible under this section unless the  
39 recording qualifies for admission under section 491.075.

40           3. If the visual and aural recording of a verbal or  
41 nonverbal statement of a child **or vulnerable person** is  
42 admissible under this section and the child **or vulnerable**  
43 **person** testifies at the proceeding, it shall be admissible  
44 in addition to the testimony of the child **or vulnerable**  
45 **person** at the proceeding whether or not it repeats or  
46 duplicates the child's **or vulnerable person's** testimony.

47           4. As used in this section, a nonverbal statement  
48 shall be defined as any demonstration of the child **or**  
49 **vulnerable person** by his or her actions, facial expressions,  
50 demonstrations with a doll or other visual aid whether or  
51 not this demonstration is accompanied by words.

52           5. For the purposes of this section, "**vulnerable**  
53 **person**" shall mean a person who, as a result of an  
54 **inadequately developed or impaired intelligence or a**  
55 **psychiatric disorder that materially affects the ability to**  
56 **function, lacks the mental capacity to consent, or whose**  
57 **developmental level does not exceed that of an ordinary**  
58 **child of seventeen years of age.**

          494.455. 1. [Each county or city not within a county  
2 may elect to compensate its jurors pursuant to subsection 2  
3 of this section except as otherwise provided in subsection 3  
4 of this section.]

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5           **2.]** Each grand and petit juror shall receive **a minimum**  
6 **of** six dollars per day, for every day **[he or she] the juror**  
7 may actually serve as **[such] a juror**, and **[seven cents] the**  
8 **mileage rate as provided by section 33.095 for state**  
9 **employees** for every mile **[he or she] the juror** may  
10 necessarily travel going from **[his or her] the juror's** place  
11 of residence to the courthouse and returning, to be paid  
12 from funds of the county or a city not within a county.  
13 **Each county or city not within a county may elect to**  
14 **compensate its jurors pursuant to subsection 2 of this**  
15 **section, except as otherwise provided in subsection 3 of**  
16 **this section.**

17           **2.** The governing body of each county or a city not  
18 within a county may authorize additional daily compensation  
19 and mileage allowance for jurors, which additional  
20 compensation shall be paid from the funds of the county or a  
21 city not within a county. The governing body of each county  
22 or a city not within a county may authorize additional daily  
23 compensation and mileage allowance for jurors attending a  
24 coroner's inquest. Jurors may receive the additional  
25 compensation and mileage allowance authorized by this  
26 subsection only if the governing body of the county or the  
27 city not within a county authorizes the additional  
28 compensation. The provisions of this subsection authorizing  
29 additional compensation shall terminate upon the issuance of  
30 a mandate by the Missouri supreme court which results in the  
31 state of Missouri being obligated or required to pay any  
32 such additional compensation even if such additional  
33 compensation is formally approved or authorized by the  
34 governing body of a county or a city not within a county.  
35 Provided that a county or a city not within a county  
36 authorizes daily compensation payable from county or city

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37 funds for jurors who serve in that county pursuant to this  
38 subsection in the amount of at least six dollars per day in  
39 addition to the amount required by [this] subsection **1 of**  
40 **this section**, a person shall receive an additional six  
41 dollars per day to be reimbursed by the state of Missouri so  
42 that the total compensation payable shall be at least  
43 eighteen dollars, plus mileage for each day that the person  
44 actually serves as a petit juror in a particular case; or  
45 for each day that a person actually serves as a grand juror  
46 during a term of a grand jury. The state shall reimburse  
47 the county for six dollars of the additional juror  
48 compensation provided by this subsection.

49 3. [In any county of the first classification without  
50 a charter form of government and with a population of at  
51 least two hundred thousand inhabitants, no grand or petit  
52 juror shall receive compensation for the first two days of  
53 service, but shall receive fifty dollars per day for the  
54 third day and each subsequent day he or she may actually  
55 serve as such, and seven cents for every mile he or she may  
56 necessarily travel going from his or her place of residence  
57 to the courthouse and returning, to be paid from funds of  
58 the county] **Notwithstanding the provisions of subsections 1**  
59 **or 2 of this section to the contrary, by a majority vote,**  
60 **the governing body of a county or a city not within a county**  
61 **may adopt a system for juror compensation in the county or a**  
62 **city not within a county as follows: each grand or petit**  
63 **juror shall receive fifty dollars per day for the third day**  
64 **the juror may actually serve as a juror and for each**  
65 **subsequent day of actual service, and the mileage rate as**  
66 **provided by section 33.095 for state employees for every**  
67 **mile the juror may necessarily travel from the juror's place**  
68 **of residence to the courthouse and returning, to be paid**



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69 **from funds of the county or a city not within a county;**  
70 **provided that no grand or petit juror shall receive**  
71 **compensation for the first two days the juror may actually**  
72 **serve as such.**

73 4. When each panel of jurors summoned and attending  
74 court has completed its service, the board of jury  
75 commissioners shall cause to be submitted to the governing  
76 body of the county or a city not within a county a statement  
77 of fees earned by each juror. Within thirty days of the  
78 submission of the statement of fees, the governing body  
79 shall cause payment to be made to those jurors summoned the  
80 fees earned during their service as jurors.

509.520. 1. Notwithstanding any provision of law to  
2 the contrary, beginning August 28, 2023, pleadings,  
3 attachments, exhibits filed with the court in any case, as  
4 well as any judgments or orders issued by the court, or  
5 other records of the court shall not include the following  
6 confidential and personal identifying information:

7 (1) The full Social Security number of any party or  
8 any child;

9 (2) The full credit card number, financial institution  
10 account number, personal identification number, or password  
11 used to secure an account of any party;

12 (3) The full motor vehicle operator license number;

13 (4) **[Victim] Information[, including the name,**  
14 **address, and other contact information of the] concerning a**  
15 **victim or witness in a criminal case that is confidential as**  
16 **otherwise provided by statute or as prescribed in the**  
17 **Missouri supreme court rules of criminal procedure or**  
18 **operating rules;**

19 (5) **[Witness information, including the name, address,**  
20 **and other contact information of the witness ;**

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- 21           (6)] Any other full state identification number;
- 22           [(7)] (6) The name, address, and date of birth of a  
23 minor and, if applicable, any next friend; [or
- 24           (8)] (7) The full date of birth of any party; however,  
25 the year of birth shall be made available, except for a  
26 minor; **or**
- 27           **(8) Any other information redacted for good cause by**  
28 **order of the court.**

29           2. The information provided under subsection 1 of this  
30 section shall be provided in a confidential information  
31 filing sheet contemporaneously filed with the court or  
32 entered by the court, which shall not be subject to public  
33 inspection or availability.

34           3. Nothing in this section shall preclude an entity  
35 including, but not limited to, a financial institution,  
36 insurer, insurance support organization, or consumer  
37 reporting agency that is otherwise permitted by law to  
38 access state court records from using a person's unique  
39 identifying information to match such information contained  
40 in a court record to validate that person's record.

41           4. The Missouri supreme court shall promulgate rules  
42 to administer this section.

43           5. Contemporaneously with the filing of every petition  
44 for dissolution of marriage, legal separation, motion for  
45 modification, action to establish paternity, and petition or  
46 motion for support or custody of a minor child, the filing  
47 party shall file a confidential case filing sheet with the  
48 court which shall not be subject to public inspection and  
49 which provides:

50           (1) The name and address of the current employer and  
51 the Social Security number of the petitioner or movant, if a  
52 person;

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53           (2) If known to the petitioner or movant, the name and  
54 address of the current employer and the Social Security  
55 number of the respondent; and

56           (3) The names, dates of birth, and Social Security  
57 numbers of any children subject to the action.

58           6. Contemporaneously with the filing of every  
59 responsive pleading petition for dissolution of marriage,  
60 legal separation, motion for modification, action to  
61 establish paternity, and petition or motion for support or  
62 custody of a minor child, the responding party shall file a  
63 confidential case filing sheet with the court which shall  
64 not be subject to public inspection and which provides:

65           (1) The name and address of the current employer and  
66 the Social Security number of the responding party, if a  
67 person;

68           (2) If known to the responding party, the name and  
69 address of the current employer and the Social Security  
70 number of the petitioner or movant; and

71           (3) The names, dates of birth, and Social Security  
72 numbers of any children subject to the action.

73           7. The full Social Security number of any party or  
74 child subject to an order of custody or support shall be  
75 retained by the court on the confidential case filing sheet  
76 or other confidential record maintained in conjunction with  
77 the administration of the case. The full credit card number  
78 or other financial account number of any party may be  
79 retained by the court on a confidential record if it is  
80 necessary to maintain the number in conjunction with the  
81 administration of the case.

82           8. Any document described in subsection 1 of this  
83 section shall, in lieu of the full number, include only the  
84 last four digits of any such number.

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85           9. Except as provided in section 452.430, the clerk  
86 shall not be required to redact any document described in  
87 subsection 1 of this section issued or filed before August  
88 28, 2009, prior to releasing the document to the public.

89           10. For good cause shown, the court may release  
90 information contained on the confidential case filing sheet;  
91 except that, any state agency acting under authority of  
92 chapter 454 shall have access to information contained  
93 herein without court order in carrying out their official  
94 duty.

**510.500. Sections 510.500 to 510.521 shall be known  
2 and may be cited as the "Uniform Interstate Depositions and  
3 Discovery Act".**

**510.503. As used in sections 510.500 to 510.521, the  
2 following terms mean:**

3           (1) "Foreign jurisdiction", a state other than this  
4 state;

5           (2) "Foreign subpoena", a subpoena issued under  
6 authority of a court of record of a foreign jurisdiction;

7           (3) "Person", an individual, corporation, business  
8 trust, estate, trust, partnership, limited liability  
9 company, association, joint venture, public corporation,  
10 government or political subdivision, agency or  
11 instrumentality, or any other legal or commercial entity;

12           (4) "State", a state of the United States, the  
13 District of Columbia, Puerto Rico, the United States Virgin  
14 Islands, a federally recognized Indian tribe, or any  
15 territory or insular possession subject to the jurisdiction  
16 of the United States;

17           (5) "Subpoena", a document, however denominated,  
18 issued under authority of a court of record requiring a  
19 person to:

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- 20 (a) Attend and give testimony at a deposition;
- 21 (b) Produce and permit inspection and copying of
- 22 designated books, documents, records, electronically stored
- 23 information, or tangible items in the possession, custody,
- 24 or control of the person; or
- 25 (c) Permit inspection of premises under the control of
- 26 the person.

510.506. 1. To request issuance of a subpoena under

2 this section, a party shall submit a foreign subpoena to a

3 clerk of court in the county in which discovery is sought to

4 be conducted in this state. A request for the issuance of a

5 subpoena under sections 510.500 to 510.521 shall not

6 constitute an appearance in the courts of this state.

7 2. If a party submits a foreign subpoena to a clerk of

8 court in this state, the clerk, in accordance with such

9 court's procedure, shall promptly issue a subpoena for

10 service upon the person to which the foreign subpoena is

11 directed.

12 3. A subpoena under subsection 2 of this section shall:

13 (1) Incorporate the terms used in the foreign

14 subpoena; and

15 (2) Contain or be accompanied by the names, addresses,

16 and telephone numbers of all counsel of record in the

17 proceeding to which the subpoena relates and of any party

18 not represented by counsel.

510.509. A subpoena issued by a clerk of court under

2 section 510.506 shall be served in compliance with the

3 Missouri supreme court rules of civil procedure and laws of

4 this state.

510.512. The Missouri supreme court rules of civil

2 procedure and laws of this state, and any amendments

3 thereto, apply to subpoenas issued under section 510.506.

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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:

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17           (1) Communication in a legislative, executive,  
18 judicial, administrative, or other governmental proceeding;

19           (2) Communication on an issue under consideration or  
20 review in a legislative, executive, judicial,  
21 administrative, or other governmental proceeding; or

22           (3) Exercise of the right of freedom of speech or of  
23 the press, the right to assemble or petition, or the right  
24 of association, guaranteed by the Constitution of the United  
25 States or the Constitution of the state of Missouri, on a  
26 matter of public concern.

27           4. The provisions of this section shall not apply to a  
28 cause of action asserted:

29           (1) Against a governmental unit or an employee or  
30 agent of a governmental unit acting or purporting to act in  
31 an official capacity;

32           (2) By a governmental unit or an employee or agent of  
33 a governmental unit acting in an official capacity to  
34 enforce a law to protect against an imminent threat to  
35 public health or safety; or

36           (3) Against a person primarily engaged in the business  
37 of selling or leasing goods or services if the cause of  
38 action arises out of a communication related to the person's  
39 sale or lease of the goods or services.

40           5. No later than sixty days after a party is served  
41 with a complaint, crossclaim, counterclaim, third-party  
42 claim, or other pleading that asserts a cause of action to  
43 which this section applies, or at a later time on a showing  
44 of good cause, the party may file a special motion to  
45 dismiss the cause of action or part of the cause of action.

46           6. (1) Except as otherwise provided in this  
47 subsection:

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48           (a) All other proceedings between the moving party and  
49 responding party in an action, including discovery and a  
50 pending hearing or motion, are stayed on the filing of a  
51 motion under subsection 5 of this section; and

52           (b) On motion by the moving party, the court may stay:

53           a. A hearing or motion involving another party if the  
54 ruling on the hearing or motion would adjudicate a legal or  
55 factual issue that is material to the motion under  
56 subsection 5 of this section; or

57           b. Discovery by another party if the discovery relates  
58 to a legal or factual issue that is material to the motion  
59 under subsection 5 of this section.

60           (2) A stay under subdivision (1) of this subsection  
61 remains in effect until entry of an order ruling on the  
62 motion filed under subsection 5 of this section and the  
63 expiration of the time to appeal the order.

64           (3) If a party appeals from an order ruling on a  
65 motion under subsection 5 of this section, all proceedings  
66 between all parties in an action are stayed. The stay  
67 remains in effect until the conclusion of the appeal.

68           (4) During a stay under subdivision (1) of this  
69 subsection, the court may allow limited discovery if a party  
70 shows that specific information is necessary to establish  
71 whether a party has satisfied or failed to satisfy a burden  
72 imposed by subdivision (1) of subsection 9 of this section  
73 and is not reasonably available without discovery.

74           (5) A motion for costs and expenses under subsection  
75 12 of this section shall not be subject to a stay under this  
76 section.

77           (6) A stay under this subsection does not affect a  
78 party's ability to voluntarily dismiss a cause of action or  
79 part of a cause of action or move to sever a cause of action.



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80           (7) During a stay under this section, the court for  
81 good cause may hear and rule on:

82           (a) A motion unrelated to the motion under subsection  
83 5 of this section; and

84           (b) A motion seeking a special or preliminary  
85 injunction to protect against an imminent threat to public  
86 health or safety.

87           7. (1) The court shall hear a motion under subsection  
88 5 of this section no later than sixty days after filing of  
89 the motion, unless the court orders a later hearing:

90           (a) To allow discovery under subdivision (4) of  
91 subsection 6 of this section; or

92           (b) For other good cause.

93           (2) If the court orders a later hearing under  
94 paragraph (a) of subdivision (1) of this subsection, the  
95 court shall hear the motion under subsection 5 of this  
96 section no later than sixty days after the court order  
97 allowing the discovery, subject to paragraph (b) of  
98 subdivision (1) of this subsection.

99           8. In ruling on a motion under subsection 5 of this  
100 section, the court shall consider the parties' pleadings,  
101 the motion, any replies and responses to the motion, and any  
102 evidence that could be considered in ruling on a motion for  
103 summary judgment.

104           9. (1) In ruling on a motion under subsection 5 of  
105 this section, the court shall dismiss with prejudice a cause  
106 of action or part of a cause of action if:

107           (a) The moving party establishes under subsection 3 of  
108 this section that this section applies;

109           (b) The responding party fails to establish under  
110 subsection 4 of this section that this section does not  
111 apply; and

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112 (c) Either:

113 a. The responding party fails to establish a prima  
114 facie case as to each essential element of the cause of  
115 action; or

116 b. The moving party establishes that:

117 (i) The responding party failed to state a cause of  
118 action upon which relief can be granted; or

119 (ii) There is no genuine issue as to any material fact  
120 and the party is entitled to judgment as a matter of law on  
121 the cause of action or part of the cause of action.

122 (2) A voluntary dismissal without prejudice of a  
123 responding party's cause of action, or part of a cause of  
124 action, that is the subject of a motion under subsection 5  
125 of this section does not affect a moving party's right to  
126 obtain a ruling on the motion and seek costs, reasonable  
127 attorney's fees, and reasonable litigation expenses under  
128 subsection 12 of this section.

129 (3) A voluntary dismissal with prejudice of a  
130 responding party's cause of action, or part of a cause of  
131 action, that is the subject of a motion under subsection 5  
132 of this section establishes for the purpose of subsection 12  
133 of this section that the moving party prevailed on the  
134 motion.

135 10. The court shall rule on a motion under subsection  
136 5 of this section no later than sixty days after the hearing  
137 under subsection 7 of this section.

138 11. A moving party may appeal within twenty-one days  
139 as a matter of right from an order denying, in whole or in  
140 part, a motion under subsection 5 of this section.

141 12. On a motion under subsection 5 of this section,  
142 the court shall award costs, reasonable attorney's fees, and  
143 reasonable litigation expenses related to the motion:

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144           (1) To the moving party if the moving party prevails  
145 on the motion; or

146           (2) To the responding party if the responding party  
147 prevails on the motion and the court finds that the motion  
148 was frivolous or filed solely with intent to delay the  
149 proceeding.

150           13. This section shall be broadly construed and  
151 applied to protect the exercise of the right of freedom of  
152 speech and of the press, the right to assemble and petition,  
153 and the right of association, guaranteed by the Constitution  
154 of the United States or the Constitution of the state of  
155 Missouri.

156           14. In applying and construing this section,  
157 consideration shall be given to the need to promote  
158 uniformity of the law with respect to its subject matter  
159 among states that enact it.

160           15. This section applies to a civil action filed or  
161 cause of action asserted in a civil action on or after  
162 August 28, 2024.

559.125. 1. The clerk of the court shall keep in a  
2 permanent file all applications for probation or parole by  
3 the court, and shall keep in such manner as may be  
4 prescribed by the court complete and full records of all  
5 presentence investigations requested, probations or paroles  
6 granted, revoked or terminated and all discharges from  
7 probations or paroles. All court orders relating to any  
8 presentence investigation requested and probation or parole  
9 granted under the provisions of this chapter and sections  
10 558.011 and 558.026 shall be kept in a like manner, and, if  
11 the defendant subject to any such order is subject to an  
12 investigation or is under the supervision of the division of  
13 probation and parole, a copy of the order shall be sent to

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14 the division of probation and parole. In any county where a  
15 parole board ceases to exist, the clerk of the court shall  
16 preserve the records of that parole board.

17 2. **Except in criminal proceedings**, information and  
18 data obtained by a probation or parole officer shall be  
19 privileged information and shall not be receivable in any  
20 court. Such information shall not be disclosed directly or  
21 indirectly to anyone other than the members of a parole  
22 board and the judge entitled to receive reports, except the  
23 court, the division of probation and parole, or the parole  
24 board may in its discretion permit the inspection of the  
25 report, or parts of such report, by the defendant, or  
26 offender or his or her attorney, or other person having a  
27 proper interest therein.

28 3. The provisions of subsection 2 of this section  
29 notwithstanding, the presentence investigation report shall  
30 be made available to the state and all information and data  
31 obtained in connection with preparation of the presentence  
32 investigation report may be made available to the state at  
33 the discretion of the court upon a showing that the receipt  
34 of the information and data is in the best interest of the  
35 state.

566.151. 1. A person twenty-one years of age or older  
2 commits the offense of enticement of a child if he or she  
3 persuades, solicits, coaxes, entices, or lures whether by  
4 words, actions or through communication via the internet or  
5 any electronic communication, any person who is less than  
6 **[fifteen] seventeen** years of age for the purpose of engaging  
7 in sexual conduct.

8 2. It is not a defense to a prosecution for a  
9 violation of this section that the other person was a peace  
10 officer masquerading as a minor.

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11           3. Enticement of a child or an attempt to commit  
12 enticement of a child is a felony for which the authorized  
13 term of imprisonment shall be not less than five years and  
14 not more than thirty years. No person convicted under this  
15 section shall be eligible for parole, probation, conditional  
16 release, or suspended imposition or execution of sentence  
17 for a period of five calendar years.

          567.030. 1. A person commits the offense of  
2 patronizing prostitution if he or she:

3           (1) Pursuant to a prior understanding, gives something  
4 of value to another person as compensation for having  
5 engaged in sexual conduct with any person; or

6           (2) Gives or agrees to give something of value to  
7 another person with the understanding that such person or  
8 another person will engage in sexual conduct with any  
9 person; or

10          (3) Solicits or requests another person to engage in  
11 sexual conduct with any person in return for something of  
12 value.

13          2. It shall not be a defense that the person believed  
14 that the individual he or she patronized for prostitution  
15 was eighteen years of age or older.

16          3. The offense of patronizing prostitution is a class  
17 B misdemeanor, unless the individual who the person  
18 patronizes is less than eighteen years of age but older than  
19 **[fourteen] fifteen** years of age, in which case patronizing  
20 prostitution is a class E felony.

21          4. The offense of patronizing prostitution is a class  
22 **[D] B** felony if the individual who the person patronizes is  
23 **[fourteen] fifteen** years of age or younger. Nothing in this  
24 section shall preclude the prosecution of an individual for  
25 the offenses of:

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26 (1) Statutory rape in the first degree pursuant to  
27 section 566.032;

28 (2) Statutory rape in the second degree pursuant to  
29 section 566.034;

30 (3) Statutory sodomy in the first degree pursuant to  
31 section 566.062; or

32 (4) Statutory sodomy in the second degree pursuant to  
33 section 566.064.

595.045. 1. There is established in the state  
2 treasury the "Crime Victims' Compensation Fund". A  
3 surcharge of seven dollars and fifty cents shall be assessed  
4 as costs in each court proceeding filed in any court in the  
5 state in all criminal cases including violations of any  
6 county ordinance or any violation of criminal or traffic  
7 laws of the state, including an infraction and violation of  
8 a municipal ordinance; except that no such fee shall be  
9 collected in any proceeding in any court when the proceeding  
10 or the defendant has been dismissed by the court or when  
11 costs are to be paid by the state, county, or municipality.  
12 A surcharge of seven dollars and fifty cents shall be  
13 assessed as costs in a juvenile court proceeding in which a  
14 child is found by the court to come within the applicable  
15 provisions of subdivision (3) of subsection 1 of section  
16 211.031.

17 2. Notwithstanding any other provision of law to the  
18 contrary, the moneys collected by clerks of the courts  
19 pursuant to the provisions of subsection 1 of this section  
20 shall be collected and disbursed in accordance with sections  
21 488.010 to 488.020 and shall be payable to the director of  
22 the department of revenue.

23 3. The director of revenue shall deposit annually the  
24 amount of two hundred fifty thousand dollars to the state

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25 forensic laboratory account administered by the department  
26 of public safety to provide financial assistance to defray  
27 expenses of crime laboratories if such analytical  
28 laboratories are registered with the federal Drug  
29 Enforcement Agency or the Missouri department of health and  
30 senior services. Subject to appropriations made therefor,  
31 such funds shall be distributed by the department of public  
32 safety to the crime laboratories serving the courts of this  
33 state making analysis of a controlled substance or analysis  
34 of blood, breath or urine in relation to a court proceeding.

35 4. The remaining funds collected under subsection 1 of  
36 this section shall be denoted to the payment of an annual  
37 appropriation for the administrative and operational costs  
38 of the office for victims of crime and, if a statewide  
39 automated crime victim notification system is established  
40 pursuant to section 650.310, to the monthly payment of  
41 expenditures actually incurred in the operation of such  
42 system. Additional remaining funds shall be subject to the  
43 following provisions:

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

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

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56           5. The director of revenue or such director's designee  
57 shall at least monthly report the moneys paid pursuant to  
58 this section into the crime victims' compensation fund and  
59 the services to victims fund to the department of public  
60 safety.

61           6. The moneys collected by clerks of municipal courts  
62 pursuant to subsection 1 of this section shall be collected  
63 and disbursed as provided by sections 488.010 to 488.020.  
64 Five percent of such moneys shall be payable to the city  
65 treasury of the city from which such funds were collected.  
66 The remaining ninety-five percent of such moneys shall be  
67 payable to the director of revenue. The funds received by  
68 the director of revenue pursuant to this subsection shall be  
69 distributed as follows:

70           (1) On the first of every month, the director of  
71 revenue or the director's designee shall determine the  
72 balance of the funds in the crime victims' compensation fund  
73 available to satisfy the amount of compensation payable  
74 pursuant to sections 595.010 to 595.075, excluding sections  
75 595.050 and 595.055;

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

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

86           8. In addition to the moneys collected pursuant to  
87 subsection 1 of this section, the court shall enter a



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88 judgment in favor of the state of Missouri, payable to the  
89 crime victims' compensation fund, of sixty-eight dollars  
90 upon a plea of guilty or a finding of guilt for a class A or  
91 B felony; forty-six dollars upon a plea of guilty or finding  
92 of guilt for a class C [or], D, or E felony; and ten dollars  
93 upon a plea of guilty or a finding of guilt for any  
94 misdemeanor under Missouri law except for those in chapter  
95 252 relating to fish and game, chapter 302 relating to  
96 drivers' and commercial drivers' license, chapter 303  
97 relating to motor vehicle financial responsibility, chapter  
98 304 relating to traffic regulations, chapter 306 relating to  
99 watercraft regulation and licensing, and chapter 307  
100 relating to vehicle equipment regulations. Any clerk of the  
101 court receiving moneys pursuant to such judgments shall  
102 collect and disburse such crime victims' compensation  
103 judgments in the manner provided by sections 488.010 to  
104 488.020. Such funds shall be payable to the state treasury  
105 and deposited to the credit of the crime victims'  
106 compensation fund.

107 9. The clerk of the court processing such funds shall  
108 maintain records of all dispositions described in subsection  
109 1 of this section and all dispositions where a judgment has  
110 been entered against a defendant in favor of the state of  
111 Missouri in accordance with this section; all payments made  
112 on judgments for alcohol-related traffic offenses; and any  
113 judgment or portion of a judgment entered but not  
114 collected. These records shall be subject to audit by the  
115 state auditor. The clerk of each court transmitting such  
116 funds shall report separately the amount of dollars  
117 collected on judgments entered for alcohol-related traffic  
118 offenses from other crime victims' compensation collections  
119 or services to victims collections.

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

125           11. The state courts administrator shall include in  
126 the annual report required by section 476.350 the circuit  
127 court caseloads and the number of crime victims'  
128 compensation judgments entered.

129           12. All awards made to injured victims under sections  
130 595.010 to 595.105 and all appropriations for administration  
131 of sections 595.010 to 595.105, except sections 595.050 and  
132 595.055, shall be made from the crime victims' compensation  
133 fund. Any unexpended balance remaining in the crime  
134 victims' compensation fund at the end of each biennium shall  
135 not be subject to the provision of section 33.080 requiring  
136 the transfer of such unexpended balance to the ordinary  
137 revenue fund of the state, but shall remain in the crime  
138 victims' compensation fund. In the event that there are  
139 insufficient funds in the crime victims' compensation fund  
140 to pay all claims in full, all claims shall be paid on a pro  
141 rata basis. If there are no funds in the crime victims'  
142 compensation fund, then no claim shall be paid until funds  
143 have again accumulated in the crime victims' compensation  
144 fund. When sufficient funds become available from the fund,  
145 awards which have not been paid shall be paid in  
146 chronological order with the oldest paid first. In the  
147 event an award was to be paid in installments and some  
148 remaining installments have not been paid due to a lack of  
149 funds, then when funds do become available that award shall  
150 be paid in full. All such awards on which installments  
151 remain due shall be paid in full in chronological order

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152 before any other postdated award shall be paid. Any award  
153 pursuant to this subsection is specifically not a claim  
154 against the state, if it cannot be paid due to a lack of  
155 funds in the crime victims' compensation fund.

156 13. When judgment is entered against a defendant as  
157 provided in this section and such sum, or any part thereof,  
158 remains unpaid, there shall be withheld from any  
159 disbursement, payment, benefit, compensation, salary, or  
160 other transfer of money from the state of Missouri to such  
161 defendant an amount equal to the unpaid amount of such  
162 judgment. Such amount shall be paid forthwith to the crime  
163 victims' compensation fund and satisfaction of such judgment  
164 shall be entered on the court record. Under no  
165 circumstances shall the general revenue fund be used to  
166 reimburse court costs or pay for such judgment. The  
167 director of the department of corrections shall have the  
168 authority to pay into the crime victims' compensation fund  
169 from an offender's compensation or account the amount owed  
170 by the offender to the crime victims' compensation fund,  
171 provided that the offender has failed to pay the amount owed  
172 to the fund prior to entering a correctional facility of the  
173 department of corrections.

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

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

181 16. The department may receive gifts and contributions  
182 for the benefit of crime victims. Such gifts and  
183 contributions shall be credited to the crime victims'

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184 compensation fund as used solely for compensating victims  
185 under the provisions of sections 595.010 to 595.075.

621.045. 1. The administrative hearing commission  
2 shall conduct hearings and make findings of fact and  
3 conclusions of law in those cases when, under the law, a  
4 license issued by any of the following agencies may be  
5 revoked or suspended or when the licensee may be placed on  
6 probation or when an agency refuses to permit an applicant  
7 to be examined upon his or her qualifications or refuses to  
8 issue or renew a license of an applicant who has passed an  
9 examination for licensure or who possesses the  
10 qualifications for licensure without examination:

11 Missouri State Board of Accountancy  
12 Missouri State Board for Architects,  
13 Professional Engineers, Professional Land  
14 Surveyors and Landscape Architects  
15 Board of Barber Examiners  
16 Board of Cosmetology  
17 Board of Chiropody and Podiatry  
18 Board of Chiropractic Examiners  
19 Missouri Dental Board  
20 Board of Embalmers and Funeral Directors  
21 Board of Registration for the Healing Arts  
22 Board of Nursing  
23 Board of Optometry  
24 Board of Pharmacy  
25 Missouri Real Estate Commission  
26 Missouri Veterinary Medical Board  
27 Supervisor of Liquor Control  
28 Department of Health and Senior Services  
29 Department of Commerce and Insurance  
30 Department of Mental Health

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31 Board of Private Investigator Examiners.

32 2. If in the future there are created by law any new  
33 or additional administrative agencies which have the power  
34 to issue, revoke, suspend, or place on probation any  
35 license, then those agencies are under the provisions of  
36 this law.

37 3. The administrative hearing commission is authorized  
38 to conduct hearings and make findings of fact and  
39 conclusions of law in those cases brought by the Missouri  
40 state board for architects, professional engineers,  
41 professional land surveyors and landscape architects against  
42 unlicensed persons under section 327.076.

43 4. **The administrative hearing commission is authorized**  
44 **to conduct hearings and make findings of fact and**  
45 **conclusions of law in those cases brought by the division of**  
46 **workers' compensation of the department of labor and**  
47 **industrial relations against administrative law judges under**  
48 **section 287.610.**

49 5. Notwithstanding any other provision of this section  
50 to the contrary, after August 28, 1995, in order to  
51 encourage settlement of disputes between any agency  
52 described in subsection 1 or 2 of this section and its  
53 licensees, any such agency shall:

54 (1) Provide the licensee with a written description of  
55 the specific conduct for which discipline is sought and a  
56 citation to the law and rules allegedly violated, together  
57 with copies of any documents which are the basis thereof and  
58 the agency's initial settlement offer, or file a contested  
59 case against the licensee;

60 (2) If no contested case has been filed against the  
61 licensee, allow the licensee at least sixty days, from the  
62 date of mailing, to consider the agency's initial settlement

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63 offer and to contact the agency to discuss the terms of such  
64 settlement offer;

65 (3) If no contested case has been filed against the  
66 licensee, advise the licensee that the licensee may, either  
67 at the time the settlement agreement is signed by all  
68 parties, or within fifteen days thereafter, submit the  
69 agreement to the administrative hearing commission for  
70 determination that the facts agreed to by the parties to the  
71 settlement constitute grounds for denying or disciplining  
72 the license of the licensee; and

73 (4) In any contact under this subsection by the agency  
74 or its counsel with a licensee who is not represented by  
75 counsel, advise the licensee that the licensee has the right  
76 to consult an attorney at the licensee's own expense.

77 [5.] 6. If the licensee desires review by the  
78 administrative hearing commission under subdivision (3) of  
79 subsection [4] 5 of this section at any time prior to the  
80 settlement becoming final, the licensee may rescind and  
81 withdraw from the settlement and any admissions of fact or  
82 law in the agreement shall be deemed withdrawn and not  
83 admissible for any purposes under the law against the  
84 licensee. Any settlement submitted to the administrative  
85 hearing commission shall not be effective and final unless  
86 and until findings of fact and conclusions of law are  
87 entered by the administrative hearing commission that the  
88 facts agreed to by the parties to the settlement constitute  
89 grounds for denying or disciplining the license of the  
90 licensee.

91 [6.] 7. When a holder of a license, registration,  
92 permit, or certificate of authority issued by the division  
93 of professional registration or a board, commission, or  
94 committee of the division of professional registration

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95 against whom an affirmative decision is sought has failed to  
96 plead or otherwise respond in the contested case and  
97 adequate notice has been given under sections 536.067 and  
98 621.100 upon a properly pled writing filed to initiate the  
99 contested case under this chapter or chapter 536, a default  
100 decision shall be entered against the licensee without  
101 further proceedings. The default decision shall grant such  
102 relief as requested by the division of professional  
103 registration, board, committee, commission, or office in the  
104 writing initiating the contested case as allowed by law.  
105 Upon motion stating facts constituting a meritorious defense  
106 and for good cause shown, a default decision may be set  
107 aside. The motion shall be made within a reasonable time,  
108 not to exceed thirty days after entry of the default  
109 decision. "Good cause" includes a mistake or conduct that  
110 is not intentionally or recklessly designed to impede the  
111 administrative process.

[435.014. 1. If all the parties to a  
2 dispute agree in writing to submit their dispute  
3 to any forum for arbitration, conciliation or  
4 mediation, then no person who serves as  
5 arbitrator, conciliator or mediator, nor any  
6 agent or employee of that person, shall be  
7 subpoenaed or otherwise compelled to disclose  
8 any matter disclosed in the process of setting  
9 up or conducting the arbitration, conciliation  
10 or mediation.

2. Arbitration, conciliation and mediation  
12 proceedings shall be regarded as settlement  
13 negotiations. Any communication relating to the  
14 subject matter of such disputes made during the  
15 resolution process by any participant, mediator,  
16 conciliator, arbitrator or any other person  
17 present at the dispute resolution shall be a  
18 confidential communication. No admission,  
19 representation, statement or other confidential  
20 communication made in setting up or conducting

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21 such proceedings not otherwise discoverable or  
22 obtainable shall be admissible as evidence or  
23 subject to discovery.]

[469.409. 1. Any claim for breach of a  
2 trustee's duty to impartially administer a trust  
3 related, directly or indirectly, to an  
4 adjustment made by a fiduciary to the allocation  
5 between principal and income pursuant to  
6 subsection 1 of section 469.405 or any  
7 allocation made by the fiduciary pursuant to any  
8 authority or discretion specified in subsection  
9 1 of section 469.403, unless previously barred  
10 by adjudication, consent or other limitation,  
11 shall be barred as provided in this section.

12 (1) Any such claim brought by a qualified  
13 beneficiary is barred if not asserted in a  
14 judicial proceeding commenced within two years  
15 after the trustee has sent a report to that  
16 qualified beneficiary that adequately discloses  
17 the facts constituting the claim.

18 (2) Any such claim brought by a  
19 beneficiary (other than a qualified beneficiary)  
20 with any interest whatsoever in the trust, no  
21 matter how remote or contingent, or whether or  
22 not the beneficiary is ascertainable or has the  
23 capacity to contract, is barred if not asserted  
24 in a judicial proceeding commenced within two  
25 years after the first to occur of:

26 (a) The date the trustee sent a report to  
27 all qualified beneficiaries that adequately  
28 discloses the facts constituting the claim; or

29 (b) The date the trustee sent a report to  
30 a person that represents the beneficiary under  
31 the provisions of subdivision (2) of subsection  
32 2 of this section.

33 2. For purposes of this section the  
34 following rules shall apply:

35 (1) A report adequately discloses the  
36 facts constituting a claim if it provides  
37 sufficient information so that the beneficiary  
38 should know of the claim or reasonably should  
39 have inquired into its existence;



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40 (2) Section 469.402 shall apply in  
41 determining whether a beneficiary (including a  
42 qualified beneficiary) has received notice for  
43 purposes of this section;

44 (3) The determination of the identity of  
45 all qualified beneficiaries shall be made on the  
46 date the report is deemed to have been sent; and

47 (4) This section does not preclude an  
48 action to recover for fraud or misrepresentation  
49 related to the report.]

[469.411. 1. (1) If the provisions of  
2 this section apply to a trust, the unitrust  
3 amount determined for each accounting year of  
4 the trust shall be a percentage between three  
5 and five percent of the average net fair market  
6 value of the trust, as of the first day of the  
7 trust's current accounting year. The percentage  
8 applicable to a trust shall be that percentage  
9 specified by the terms of the governing  
10 instrument or by the election made in accordance  
11 with subdivision (2) of subsection 5 of this  
12 section.

13 (2) The unitrust amount for the current  
14 accounting year computed pursuant to this  
15 section shall be proportionately reduced for any  
16 distributions, in whole or in part, other than  
17 distributions of the unitrust amount, and for  
18 any payments of expenses, including debts,  
19 disbursements and taxes, from the trust within a  
20 current accounting year that the trustee  
21 determines to be material and substantial, and  
22 shall be proportionately increased for the  
23 receipt, other than a receipt that represents a  
24 return on investment, of any additional property  
25 into the trust within a current accounting year.

26 (3) For purposes of this section, the net  
27 fair market values of the assets held in the  
28 trust on the first business day of a prior  
29 accounting quarter shall be adjusted to reflect  
30 any reduction, in the case of a distribution or  
31 payment, or increase, in the case of a receipt,  
32 for the prior accounting year pursuant to  
33 subdivision (1) of this subsection, as if the

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34 distribution, payment or receipt had occurred on  
35 the first day of the prior accounting year.

36 (4) In the case of a short accounting  
37 period, the trustee shall prorate the unitrust  
38 amount on a daily basis.

39 (5) In the case where the net fair market  
40 value of an asset held in the trust has been  
41 incorrectly determined in any quarter, the  
42 unitrust amount shall be increased in the case  
43 of an undervaluation, or be decreased in the  
44 case of an overvaluation, by an amount equal to  
45 the difference between the unitrust amount  
46 determined based on the correct valuation of the  
47 asset and the unitrust amount originally  
48 determined.

49 2. As used in this section, the following  
50 terms mean:

51 (1) "Average net fair market value", a  
52 rolling average of the fair market value of the  
53 assets held in the trust on the first business  
54 day of the lessor of the number of accounting  
55 quarters of the trust from the date of inception  
56 of the trust to the determination of the trust's  
57 average net fair market value, or twelve  
58 accounting quarters of the trust, regardless of  
59 whether this section applied to the  
60 ascertainment of net income for all valuation  
61 quarters;

62 (2) "Current accounting year", the  
63 accounting period of the trust for which the  
64 unitrust amount is being determined.

65 3. In determining the average net fair  
66 market value of the assets held in the trust,  
67 there shall not be included the value of:

68 (1) Any residential property or any  
69 tangible personal property that, as of the first  
70 business day of the current valuation year, one  
71 or more income beneficiaries of the trust have  
72 or had the right to occupy, or have or had the  
73 right to possess or control, other than in a  
74 capacity as trustee, and instead the right of  
75 occupancy or the right to possession or control  
76 shall be deemed to be the unitrust amount with

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77 respect to the residential property or the  
78 tangible personal property; or

79 (2) Any asset specifically given to a  
80 beneficiary under the terms of the trust and the  
81 return on investment on that asset, which return  
82 on investment shall be distributable to the  
83 beneficiary.

84 4. In determining the average net fair  
85 market value of the assets held in the trust  
86 pursuant to subsection 1 of this section, the  
87 trustee shall, not less often than annually,  
88 determine the fair market value of each asset of  
89 the trust that consists primarily of real  
90 property or other property that is not traded on  
91 a regular basis in an active market by appraisal  
92 or other reasonable method or estimate, and that  
93 determination, if made reasonably and in good  
94 faith, shall be conclusive as to all persons  
95 interested in the trust. Any claim based on a  
96 determination made pursuant to this subsection  
97 shall be barred if not asserted in a judicial  
98 proceeding brought by any beneficiary with any  
99 interest whatsoever in the trust within two  
100 years after the trustee has sent a report to all  
101 qualified beneficiaries that adequately  
102 discloses the facts constituting the claim. The  
103 rules set forth in subsection 2 of section  
104 469.409 shall apply to the barring of claims  
105 pursuant to this subsection.

106 5. This section shall apply to the  
107 following trusts:

108 (1) Any trust created after August 28,  
109 2001, with respect to which the terms of the  
110 trust clearly manifest an intent that this  
111 section apply;

112 (2) Any trust created under an instrument  
113 that became irrevocable on, before, or after  
114 August 28, 2001, if the trustee, in the  
115 trustee's discretion, elects to have this  
116 section apply unless the instrument creating the  
117 trust specifically prohibits an election under  
118 this subdivision. The trustee shall deliver  
119 notice to all qualified beneficiaries and the  
120 settlor of the trust, if he or she is then

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121 living, of the trustee's intent to make such an  
122 election at least sixty days before making that  
123 election. The trustee shall have sole authority  
124 to make the election. Section 469.402 shall  
125 apply for all purposes of this subdivision. An  
126 action or order by any court shall not be  
127 required. The election shall be made by a  
128 signed writing delivered to the settlor of the  
129 trust, if he or she is then living, and to all  
130 qualified beneficiaries. The election is  
131 irrevocable, unless revoked by order of the  
132 court having jurisdiction of the trust. The  
133 election may specify the percentage used to  
134 determine the unitrust amount pursuant to this  
135 section, provided that such percentage is  
136 between three and five percent, or if no  
137 percentage is specified, then that percentage  
138 shall be three percent. In making an election  
139 pursuant to this subsection, the trustee shall  
140 be subject to the same limitations and  
141 conditions as apply to an adjustment between  
142 income and principal pursuant to subsections 3  
143 and 4 of section 469.405; and

144 (3) No action of any kind based on an  
145 election made by a trustee pursuant to  
146 subdivision (2) of this subsection shall be  
147 brought against the trustee by any beneficiary  
148 of that trust three years from the effective  
149 date of that election.

150 6. (1) Once the provisions of this  
151 section become applicable to a trust, the net  
152 income of the trust shall be the unitrust amount.

153 (2) Unless otherwise provided by the  
154 governing instrument, the unitrust amount  
155 distributed each year shall be paid from the  
156 following sources for that year up to the full  
157 value of the unitrust amount in the following  
158 order:

159 (a) Net income as determined if the trust  
160 were not a unitrust;

161 (b) Other ordinary income as determined  
162 for federal income tax purposes;

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163 (c) Assets of the trust principal for  
164 which there is a readily available market value;  
165 and

166 (d) Other trust principal.

167 (3) Additionally, the trustee may allocate  
168 to trust income for each taxable year of the  
169 trust, or portion thereof:

170 (a) Net short-term capital gain described  
171 in the Internal Revenue Code, 26 U.S.C. Section  
172 1222(5), for such year, or portion thereof, but  
173 only to the extent that the amount so allocated  
174 together with all other amounts to trust income,  
175 as determined under the provisions of this  
176 chapter without regard to this section, for such  
177 year, or portion thereof, does not exceed the  
178 unitrust amount for such year, or portion  
179 thereof;

180 (b) Net long-term capital gain described  
181 in the Internal Revenue Code, 26 U.S.C. Section  
182 1222(7), for such year, or portion thereof, but  
183 only to the extent that the amount so allocated  
184 together with all other amounts, including  
185 amounts described in paragraph (a) of this  
186 subdivision, allocated to trust income for such  
187 year, or portion thereof, does not exceed the  
188 unitrust amount for such year, or portion  
189 thereof.

190 7. A trust with respect to which this  
191 section applies on August 28, 2011, may  
192 calculate the unitrust amount in accordance with  
193 the provisions of this section, as it existed  
194 either before or after such date, as the trustee  
195 of such trust shall determine in a writing kept  
196 with the records of the trust in the trustee's  
197 discretion.]

2 [469.461. 1. A fiduciary may make  
3 adjustments between principal and income to  
4 offset the shifting of economic interests or tax  
5 benefits between income beneficiaries and  
6 remainder beneficiaries which arise from:

7 (1) Elections and decisions, other than  
those described in subsection 2 of this section,

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8 that the fiduciary makes from time to time  
9 regarding tax matters;

10 (2) An income tax or any other tax that is  
11 imposed upon the fiduciary or a beneficiary as a  
12 result of a transaction involving or a  
13 distribution from the estate or trust; or

14 (3) The ownership by an estate or trust of  
15 an interest in an entity whose taxable income,  
16 whether or not distributed, is includable in the  
17 taxable income of the estate, trust or a  
18 beneficiary.

19 2. If the amount of an estate tax marital  
20 deduction or charitable contribution deduction  
21 is reduced because a fiduciary deducts an amount  
22 paid from principal for income tax purposes  
23 instead of deducting it for estate tax purposes,  
24 and as a result estate taxes paid from principal  
25 are increased and income taxes paid by an  
26 estate, trust or beneficiary are decreased, each  
27 estate, trust or beneficiary that benefits from  
28 the decrease in income tax shall reimburse the  
29 principal from which the increase in estate tax  
30 is paid. The total reimbursement shall equal  
31 the increase in the estate tax to the extent  
32 that the principal used to pay the increase  
33 would have qualified for a marital deduction or  
34 charitable contribution deduction but for the  
35 payment. The proportionate share of the  
36 reimbursement for each estate, trust or  
37 beneficiary whose income taxes are reduced shall  
38 be the same as its proportionate share of the  
39 total decrease in income tax. An estate or  
40 trust shall reimburse principal from income.]

[537.528. 1. Any action against a person  
2 for conduct or speech undertaken or made in  
3 connection with a public hearing or public  
4 meeting, in a quasi-judicial proceeding before a  
5 tribunal or decision-making body of the state or  
6 any political subdivision of the state is  
7 subject to a special motion to dismiss, motion  
8 for judgment on the pleadings, or motion for  
9 summary judgment that shall be considered by the  
10 court on a priority or expedited basis to ensure

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11 the early consideration of the issues raised by  
12 the motion and to prevent the unnecessary  
13 expense of litigation. Upon the filing of any  
14 special motion described in this subsection, all  
15 discovery shall be suspended pending a decision  
16 on the motion by the court and the exhaustion of  
17 all appeals regarding the special motion.

18 2. If the rights afforded by this section  
19 are raised as an affirmative defense and if a  
20 court grants a motion to dismiss, a motion for  
21 judgment on the pleadings or a motion for  
22 summary judgment filed within ninety days of the  
23 filing of the moving party's answer, the court  
24 shall award reasonable attorney fees and costs  
25 incurred by the moving party in defending the  
26 action. If the court finds that a special  
27 motion to dismiss or motion for summary judgment  
28 is frivolous or solely intended to cause  
29 unnecessary delay, the court shall award costs  
30 and reasonable attorney fees to the party  
31 prevailing on the motion.

32 3. Any party shall have the right to an  
33 expedited appeal from a trial court order on the  
34 special motions described in subsection 2 of  
35 this section or from a trial court's failure to  
36 rule on the motion on an expedited basis.

37 4. As used in this section, a "public  
38 meeting in a quasi-judicial proceeding" means  
39 and includes any meeting established and held by  
40 a state or local governmental entity, including  
41 without limitations meetings or presentations  
42 before state, county, city, town or village  
43 councils, planning commissions, review boards or  
44 commissions.

45 5. Nothing in this section limits or  
46 prohibits the exercise of a right or remedy of a  
47 party granted pursuant to another  
48 constitutional, statutory, common law or  
49 administrative provision, including civil  
50 actions for defamation.

51 6. If any provision of this section or the  
52 application of any provision of this section to  
53 a person or circumstance is held invalid, the  
54 invalidity shall not affect other provisions or

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55 applications of this section that can be given  
56 effect without the invalid provision or  
57 application, and to this end the provisions of  
58 this section are severable.

59 7. The provisions of this section shall  
60 apply to all causes of actions.]

✓