

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 230

100TH GENERAL ASSEMBLY

2019

0886S.07T

AN ACT

To repeal sections 209.625, 472.010, 475.035, 475.115, 476.001, 508.010, and 600.042, RSMo, and to enact in lieu thereof seven new sections relating to judicial proceedings.

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

Section A. Sections 209.625, 472.010, 475.035, 475.115, 476.001, 508.010, 2 and 600.042, RSMo, are repealed and seven new sections enacted in lieu thereof, 3 to be known as sections 209.625, 472.010, 475.035, 475.115, 476.001, 508.010, and 4 600.042, to read as follows:

209.625. 1. Notwithstanding any law to the contrary, the assets of the 2 ABLE program held by the board and the assets of any ABLE account and any 3 income therefrom shall be exempt from all taxation by the state or any of its 4 political subdivisions. Income earned or received from an ABLE account or 5 deposit shall not be subject to state income tax imposed pursuant to chapter 6 143. The exemption from taxation pursuant to this section shall apply only to 7 assets and income maintained, accrued, or expended pursuant to the 8 requirements of the ABLE program established pursuant to sections 209.600 to 9 209.645, and no exemption shall apply to assets and income expended for any 10 other purposes. Annual contributions made to the ABLE program held by the 11 board up to and including eight thousand dollars per participating taxpayer, and 12 up to sixteen thousand dollars for married individuals filing a joint tax return, 13 shall be subtracted in determining Missouri adjusted gross income pursuant to 14 section 143.121.

15 2. If any deductible contributions to or earnings from any such program

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

16 referred to in this section are distributed and not used to pay qualified disability
17 expenses or are not held for the minimum length of time established by the
18 appropriate Missouri board, the amount so distributed shall be added to the
19 Missouri adjusted gross income of the participant, or, if the participant is not
20 living, the designated beneficiary.

21 3. The provisions of this section shall apply to tax years beginning on or
22 after January 1, 2015.

23 4. **The assets held in an ABLE account under sections 209.600 to**
24 **209.645 shall not be considered the property of a conservatorship estate**
25 **established under chapter 475.**

26 5. **The provisions of subsection 4 of this section shall not apply**
27 **to ABLE accounts in the charge and custody of a public administrator.**

472.010. When used in this code, unless otherwise apparent from the
2 context:

3 (1) "Administrator" includes any administrator de bonis non,
4 administrator cum testamento annexo, administrator ad litem and administrator
5 during absence or minority;

6 (2) "Child" includes an adopted child and a child born out of wedlock, but
7 does not include a grandchild or other more remote descendants;

8 (3) "Claims" include liabilities of the decedent which survive whether
9 arising in contract, tort or otherwise, funeral expenses, the expense of a
10 tombstone, and costs and expenses of administration;

11 (4) "Clerk" means clerk of the probate division of the circuit court;

12 (5) "Code" or "probate code" means chapters 472, 473, 474 and 475;

13 (6) "Court" or "probate court" means the probate division of the circuit
14 court;

15 (7) "Devise", when used as a noun, means a testamentary disposition of
16 real or personal property or both; when used as a verb it means to dispose of real
17 or personal property or both by will;

18 (8) "Devisee" includes legatee;

19 (9) "Distributee" denotes those persons who are entitled to the real and
20 personal property of a decedent under his will, under the statutes of intestate
21 succession or who take as surviving spouse under section 474.160, upon election
22 to take against the will;

23 (10) "Domicile" means the place in which a person has voluntarily fixed
24 his abode, not for a mere special or temporary purpose, but with a present

25 intention of remaining there permanently or for an indefinite time;

26 (11) "Estate" means the real and personal property of the decedent or
27 ward, as from time to time changed in form by sale, reinvestment or otherwise,
28 and augmented by any accretions and additions thereto and substitutions
29 therefor, and diminished by any decreases and distributions therefrom. **Under**
30 **the provisions of subsections 4 and 5 of section 209.625, assets held in**
31 **an ABLE account established under sections 209.600 to 209.645 shall not**
32 **be considered the property of the designated beneficiary of said**
33 **account for purposes of this subdivision when applied in chapter 475,**
34 **unless the estate is in the charge and custody of a public administrator;**

35 (12) "Exempt property" means that property of a decedent's estate which
36 is not subject to be applied to the payment of claims, charges, legacies or bequests
37 as described in section 474.250;

38 (13) "Fiduciary" includes executor, administrator, guardian, conservator,
39 and trustee;

40 (14) "Heirs" means those persons, including the surviving spouse, who are
41 entitled under the statutes of intestate succession to the real and personal
42 property of a decedent on his death intestate;

43 (15) "Interested persons" mean heirs, devisees, spouses, creditors or any
44 others having a property right or claim against the estate of a decedent being
45 administered and includes children of a protectee who may have a property right
46 or claim against or an interest in the estate of a protectee. This meaning may
47 vary at different stages and different parts of a proceeding and must be
48 determined according to the particular purpose and matter involved;

49 (16) "Issue" of a person, when used to refer to persons who take by
50 intestate succession, includes adopted children and all lawful lineal descendants,
51 except those who are the lineal descendants of living lineal descendants of the
52 intestate;

53 (17) "Lease" includes an oil and gas lease or other mineral lease, but does
54 not include month-to-month or year-to-year tenancies under oral contracts;

55 (18) "Legacy" means a testamentary disposition of personal property;

56 (19) "Legatee" means a person entitled to personal property under a will;

57 (20) "Letters" include letters testamentary, letters of administration and
58 letters of guardianship;

59 (21) "Lien" includes all liens except general judgment, execution and
60 attachment liens;

- 61 (22) "Lineal descendants" include adopted children and their descendants;
- 62 (23) "Mortgage" includes deed of trust, vendor's lien and chattel mortgage;
- 63 (24) "Person" includes natural persons and corporations;
- 64 (25) "Personal property" includes interests in goods, money, choses in
65 action, evidences of debt, shares of corporate stock, and chattels real;
- 66 (26) "Personal representative" means executor or administrator. It
67 includes an administrator with the will annexed, an administrator de bonis non,
68 an administrator pending contest, an administrator during minority or absence,
69 and any other type of administrator of the estate of a decedent whose
70 appointment is permitted. It does not include an executor de son tort;
- 71 (27) "Property" includes both real and personal property;
- 72 (28) "Real property" includes estates and interests in land, corporeal or
73 incorporeal, legal or equitable, other than chattels real;
- 74 (29) "Registered mail" includes "certified mail" as defined and certified
75 under regulations of the United States Postal Service;
- 76 (30) "Will" includes codicil; it also includes a testamentary instrument
77 which merely appoints an executor and a testamentary instrument which merely
78 revokes or revives another will.

475.035. 1. The venue for the appointment of a guardian or conservator
2 shall be:

- 3 (1) In the county in this state where the minor or alleged incapacitated
4 or disabled person is domiciled. **Domicile for a minor is the domicile of the**
5 **custodial parent, custodial parents, or guardian. Placement by a court,**
6 **fiduciary, or agency for evaluation, treatment, or residential care shall**
7 **not constitute a choice of domicile by the minor or alleged**
8 **incapacitated or disabled person; however, for the purpose of**
9 **determining domicile, the court may consider the desire or intent of the**
10 **alleged incapacitated or disabled person to the extent he or she has**
11 **capacity; or**
- 12 (2) If the minor or alleged incapacitated or disabled person has no
13 domicile in this state, then in the county in which the minor or alleged
14 incapacitated or disabled person [actually resides, or if he or she does not reside
15 in any county, then in any county wherein there is any property of the minor or
16 alleged incapacitated or disabled person; or
- 17 (3) In the county, or on any federal reservation within the county, wherein
18 the minor or alleged incapacitated or disabled person or his or her property is

19 found; or

20 (4) In a county of this state which is within a judicial circuit which has
21 prior and continuing jurisdiction over the minor pursuant to subdivision (1) of
22 subsection 1 of section 211.031] **has a significant connection. In**
23 **determining under this section whether a minor or alleged**
24 **incapacitated or disabled person has a significant connection, the court**
25 **shall consider:**

26 (a) **Whether a juvenile, criminal, or probate court in a county of**
27 **this state has previously or currently assumed jurisdiction over the**
28 **minor or alleged incapacitated or disabled person under chapter 211 or**
29 **552;**

30 (b) **The location of the minor's or alleged incapacitated or**
31 **disabled person's family and other persons required to be notified of**
32 **the guardianship or conservatorship;**

33 (c) **Whether the minor or alleged incapacitated or disabled**
34 **person has a residence or is physically present in the county and the**
35 **duration of his or her physical presence or absence;**

36 (d) **The location of the minor's or alleged incapacitated or**
37 **disabled person's property; and**

38 (e) **The extent to which the minor or alleged incapacitated or**
39 **disabled person has ties such as voting registration, local tax return**
40 **filing, vehicle registration, driver's license, social relationships, or**
41 **receipt of services.**

42 2. [If the alleged incapacitated or disabled person has resided in a county
43 other than the county of his or her domicile for more than one year, the court of
44 that county may assume venue for the purpose of appointment of a guardian or
45 conservator] **In the event the venue for purposes of guardianship and**
46 **conservatorship are in different counties, venue shall be in the county**
47 **of the guardianship.**

48 3. If proceedings are commenced in more than one county, they shall be
49 stayed except in the county where first commenced until final determination of
50 venue in the county where first commenced. The proceeding is deemed
51 commenced by the filing of a petition[; and the proceeding first legally commenced
52 to appoint a conservator of the estate extends to all of the property of the
53 protectee in this state].

475.115. 1. When a guardian or conservator dies, is removed by order of

2 the court, or resigns and his or her resignation is accepted by the court, the court
3 shall have the same authority as it has in like cases over personal representatives
4 and their sureties and may appoint another guardian or conservator in the same
5 manner and subject to the same requirements as are herein provided for an
6 original appointment of a guardian or conservator.

7 2. A public administrator may request transfer of any case to the
8 jurisdiction of another county by filing a petition for transfer. If [the receiving
9 county meets the venue requirements of section 475.035 and] the public
10 administrator of the receiving county consents to the transfer, the court shall
11 transfer the case. The court with jurisdiction over the receiving county shall,
12 without the necessity of any hearing as required by section 475.075, appoint the
13 public administrator of the receiving county as successor guardian and/or
14 successor conservator and issue letters therein. In the case of a conservatorship,
15 the final settlement of the public administrator's conservatorship shall be filed
16 within thirty days of the court's transfer of the case, in the court with jurisdiction
17 over the original conservatorship, and forwarded to the receiving county upon
18 audit and approval.

476.001. An efficient, well operating and productive judiciary is essential
2 to the preservation of the people's liberty and prosperity. In order to achieve this
3 goal, the general assembly and the supreme court must constantly be aware of
4 the operations, needs, strengths and weaknesses of the judicial system. It is the
5 purpose of sections 476.001, 476.055, 476.330 to 476.380, 476.412, 476.681, and
6 477.405 to provide the general assembly and the supreme court with the
7 mechanisms to obtain on a continuing basis a comprehensive analysis of judicial
8 resources and an efficient and organized method of identifying the problems and
9 needs as they occur. It is the further purpose of sections 476.001, 476.055,
10 476.330 to 476.380, 476.412, 476.681, 477.405, 478.073, **and** 478.320[, and
11 subdivision (12) of subsection 1 of section 600.042] to provide a system for the
12 efficient allocation of available personnel, facilities and resources to achieve a
13 uniform and effective operation of the judicial system.

508.010. 1. As used in this section, "principal place of residence" shall
2 mean the county which is the main place where an individual resides in the state
3 of Missouri. [There shall be a rebuttable presumption that the county of voter
4 registration at the time of injury is the principal place of residence.] There shall
5 be only one principal place of residence.

6 **(1) For an individual person, there shall be a rebuttable**

7 **presumption that the county of voter registration at the time of injury**
8 **is the principal place of residence.**

9 (2) **Notwithstanding subdivision (1) of this subsection, for an**
10 **individual whose conduct at issue was alleged in at least one count to**
11 **be in the course and scope of his or her employment with a**
12 **corporation, the individual's principal place of residence for venue**
13 **purposes shall be deemed to be the applicable corporation's principal**
14 **place of residence.**

15 (3) **For a corporation that, either directly or through its**
16 **subsidiaries, wholly owns or operates a railroad, the place where the**
17 **corporation has its registered agent is its principal place of residence**
18 **for the purposes of venue, provided that the registered agent is in a**
19 **city not within a county, a charter county, or a first class county.**

20 2. In all actions in which there is no count alleging a tort, venue shall be
21 determined as follows:

22 (1) When the defendant is a resident of the state, either in the county
23 within which the defendant resides, or in the county within which the plaintiff
24 resides, and the defendant may be found;

25 (2) When there are several defendants, and they reside in different
26 counties, the suit may be brought in any such county;

27 (3) When there are several defendants, some residents and others
28 nonresidents of the state, suit may be brought in any county in this state in
29 which any defendant resides;

30 (4) When all the defendants are nonresidents of the state, suit may be
31 brought in any county in this state, **provided there is personal jurisdiction**
32 **over each defendant, independent of each other defendant.**

33 3. The term "tort" shall include claims based upon improper health care,
34 under the provisions of chapter 538.

35 4. Notwithstanding any other provision of law, in all actions in which
36 there is any count alleging a tort and in which the plaintiff was first injured in
37 the state of Missouri, venue shall be in the county where the plaintiff was first
38 injured by the [wrongful] acts or [negligent] conduct alleged in the action.

39 5. Notwithstanding any other provision of law, in all actions in which
40 there is any count alleging a tort and in which the plaintiff was first injured
41 outside the state of Missouri, venue **as to that individual plaintiff** shall be
42 determined as follows:

43 (1) If the defendant is a corporation, then venue shall be in any county
44 where a defendant corporation's registered agent is located or, if the plaintiff's
45 principal place of residence was in the state of Missouri on the date the plaintiff
46 was first injured, then venue may be in the county of the plaintiff's principal
47 place of residence on the date the plaintiff was first injured;

48 (2) If the defendant is an individual, then venue shall be in [any] **the**
49 county [of] **where** the [individual defendant's] **defendant has his or her**
50 principal place of residence in the state of Missouri, **which for venue purposes**
51 **shall be deemed to be that of his or her employer corporation if any**
52 **count alleges conduct in the course and scope of his or her employment**
53 **with that corporation**, or, if the plaintiff's principal place of residence was in
54 the state of Missouri on the date the plaintiff was first injured, then venue **as to**
55 **that individual plaintiff** may be in the county containing the plaintiff's
56 principal place of residence on the date the plaintiff was first injured;

57 (3) Notwithstanding subdivisions (1) and (2) of this subsection, if the
58 plaintiff was first injured in a foreign country in connection with any railroad
59 operations therein and any defendant is a:

60 (a) Corporation that, either directly or through its subsidiaries, wholly
61 owns or operates the foreign railroad; or

62 (b) Wholly owned subsidiary of a corporation that, either directly or
63 through its subsidiaries, wholly owns or operates the foreign railroad;
64 then venue shall exclusively be in the county where any such defendant
65 corporation's registered agent is located, regardless of venue as to any other
66 defendant or, if the plaintiff's principal place of residence was in the state of
67 Missouri on the date the plaintiff was first injured, then venue may be in the
68 county of the plaintiff's principal place of residence on the date the plaintiff was
69 first injured.

70 6. Any action, in which any county shall be a plaintiff, may be commenced
71 and prosecuted to final judgment in the county in which the defendant or
72 defendants reside, or in the county suing and where the defendants, or one of
73 them, may be found.

74 7. In all actions, process shall be issued by the court in which the action
75 is filed and process may be served in any county within the state.

76 8. In any action for defamation or for invasion of privacy, the plaintiff
77 shall be considered first injured in the county in which the defamation or
78 invasion was first published.

79 9. In all actions, venue shall be determined as of the date the plaintiff was
80 first injured.

81 10. All motions to dismiss or to transfer based upon a claim of improper
82 venue shall be deemed granted if not denied within ninety days of filing of the
83 motion unless such time period is waived in writing by all parties.

84 11. In a wrongful death action, the plaintiff shall be considered first
85 injured where the decedent was first injured by the wrongful acts or negligent
86 conduct alleged in the action. In any spouse's claim for loss of consortium, the
87 plaintiff claiming consortium shall be considered first injured where the other
88 spouse was first injured by the wrongful acts or negligent conduct alleged in the
89 action.

90 12. The provisions of this section shall apply irrespective of whether the
91 defendant is a for-profit or a not-for-profit entity.

92 13. In any civil action, if all parties agree in writing to a change of venue,
93 the court shall transfer venue to the county within the state unanimously chosen
94 by the parties. If any parties are added to the cause of action after the date of
95 said transfer who do not consent to said transfer then the cause of action shall
96 be transferred to such county in which venue is appropriate under this section,
97 based upon the amended pleadings.

98 14. A plaintiff is considered first injured where the trauma or exposure
99 occurred rather than where symptoms are first manifested.

100 **15. If the county where the plaintiff's claim is filed is not a**
101 **proper venue, that plaintiff shall be transferred to a county where**
102 **proper venue can be established. If no such county exists in the state**
103 **of Missouri, the claim shall be dismissed without prejudice.**

104 **16. Denial of a motion to transfer venue pursuant to sections**
105 **507.040, 507.050, or 508.010, if denied in error, requires reversal, and no**
106 **finding of prejudice under Missouri supreme court rule 84.13(b) is**
107 **required for reversal.**

108 **17. For the purposes of this section, a domestic insurance**
109 **company shall be deemed to reside in, and be a resident of, the county**
110 **where its registered office is maintained. A foreign insurance company**
111 **shall be deemed to reside in, and be a resident of, the county where its**
112 **registered office is maintained. If a foreign insurance company does**
113 **not maintain a registered office in any county in Missouri, the foreign**
114 **insurance company shall be deemed to reside in, and be a resident of,**

115 **Cole County.**

600.042. 1. The director shall:

2 (1) Direct and supervise the work of the deputy directors and other state
3 public defender office personnel appointed pursuant to this chapter; and he or she
4 and the deputy director or directors may participate in the trial and appeal of
5 criminal actions at the request of the defender;

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

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

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

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

27 (6) Keep and maintain proper financial records with respect to the
28 provision of all public defender services for use in the calculating of direct and
29 indirect costs of any or all aspects of the operation of the state public defender
30 system;

31 (7) Supervise the training of all public defenders and other personnel and
32 establish such training courses as shall be appropriate;

33 (8) With approval of the commission, promulgate necessary rules,
34 regulations and instructions consistent with this chapter defining the
35 organization of the state public defender system and the responsibilities of

36 division directors, district defenders, deputy district defenders, assistant public
37 defenders and other personnel;

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

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

46 (11) With the approval and on behalf of the commission, contract with
47 private attorneys for the collection and enforcement of liens and other judgments
48 owed to the state for services rendered by the state public defender system[;

49 (12) Prepare a plan to establish district offices, the boundaries of which
50 shall coincide with existing judicial circuits. Any district office may contain more
51 than one judicial circuit within its boundaries, but in no event shall any district
52 office boundary include any geographic region of a judicial circuit without
53 including the entire judicial circuit. The director shall submit the plan to the
54 chair of the house judiciary committee and the chair of the senate judiciary
55 committee, with fiscal estimates, by December 31, 2014. The plan shall be
56 implemented by December 31, 2021].

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

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

67 4. The director and defenders shall provide legal services to an eligible
68 person:

69 (1) Who is detained or charged with a felony, including appeals from a
70 conviction in such a case;

71 (2) Who is detained or charged with a misdemeanor which will probably

72 result in confinement in the county jail upon conviction, including appeals from
73 a conviction in such a case, unless the prosecuting or circuit attorney has waived
74 a jail sentence;

75 (3) Who is charged with a violation of probation when it has been
76 determined by a judge that the appointment of counsel is necessary to protect the
77 person's due process rights under section 559.036;

78 (4) Who has been taken into custody pursuant to section 632.489,
79 including appeals from a determination that the person is a sexually violent
80 predator and petitions for release, notwithstanding any provisions of law to the
81 contrary;

82 (5) For whom the federal constitution or the state constitution requires
83 the appointment of counsel; and

84 (6) Who is charged in a case in which he or she faces a loss or deprivation
85 of liberty, and in which the federal or the state constitution or any law of this
86 state requires the appointment of counsel; however, the director and the
87 defenders shall not be required to provide legal services to persons charged with
88 violations of county or municipal ordinances, or misdemeanor offenses except as
89 provided in this section.

90 5. The director may:

91 (1) Delegate the legal representation of an eligible person to any member
92 of the state bar of Missouri;

93 (2) Designate persons as representatives of the director for the purpose
94 of making indigency determinations and assigning counsel.

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