SECOND REGULAR SESSION

REVISION

SENATE BILL NO. 715

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LAGER.

Read 1st time January 14, 2014, and ordered printed.

TERRY L. SPIELER, Secretary.

4766L.01I

AN ACT

To repeal sections 3.060, 3.070, 8.700, 8.110, 8.115, 8.180, 8.200, 8.260, 8.310, 8.315, 8.316, 8.320, 8.325, 8.330, 8.340, 8.350, 8.360, 8.800, 8.830, 8.843, 33.710, 33.750, 33.752, 33.753, 33.756, 34.031, 36.030, 37.005, 37.010, 37.020, 37.110, 43.251, 64.090, 89.020, 135.326, 135.335, 135.339, 143.782, 143.790, 143.1002, 160.700, 160.545, 161.418, 161.424, 167.034, 167.122, 167.123, 169.520, 172.875, 181.110, 186.019, 189.095, 191.737, 191.850, 191.853, 191.855, 191.857, 191.858, 191.859, 191.861, 191.863, 191.865, 191.867, 192.601, 192.935, 193.075, 193.215, 196.1103, 197.312, 197.318, 197.367, 198.018, 198.026, 198.029, 198.077, 198.080, 198.087, 198.090, 198.189, 198.421, 198.428, 198.510, 198.515, 199.025, 205.960, 205.961, 205.962, 205.964, 205.965, 207.010, 207.020, 207.030, 207.070, 207.080, 208.015, 208.030, 208.041, 208.042, 208.047, 208.050, 208.060, 208.070, 208.072, 208.075, 208.080, 208.100, 208.120, 208.125, 208.130, 208.145, 208.150, 208.152, 208.154, 208.156, 208.157, 208.164, 208.165, 208.168, 208.175, 208.176, 208.180, 208.182, 208.190, 208.204, 208.210, 208.217, 208.225, 208.300, 208.325, 208.337, 208.345, 208.400, 208.405, 208.471, 208.477, 208.533, 208.606, 208.609, 208.621, 208.636, 208.780, 209.010, 209.020, 209.030, 209.050, 209.060, 209.070, 209.080, 209.090, 209.100, 209.110, 209.240, 209.251, 210.001, 210.115, 210.165, 210.166, 210.167, 210.192, 210.196, 210.254, 210.481, 210.536, 210.537, 210.543, 210.545, 210.551, 210.560, 210.720, 210.829, 210.830, 210.834, 210.843, 210.846, 210.870, 210.900, 210.950, 211.081, 211.180, 211.183, 211.455, 211.477, 217.575, 226.008, 226.805, 251.100, 251.240, 253.320, 261.010, 285.300, 288.220, 288.270, 301.020, 302.133, 302.134, 302.135, 302.137, 302.171, 302.178, 311.650, 313.210, 320.260, 324.032, 334.125, 338.314, 361.010, 376.819, 452.345, 452.346, 452.347, 452.350, 452.370, 452.416, 453.005, 453.014, 453.015, 453.026, 453.065, 453.070, 453.074, 453.077, 453.102, 453.110, 453.400, 454.400, 454.403, 454.405, 454.408, 454.415, 454.420, 454.425, 454.430, 454.432, 454.433, 454.435, 454.440, 454.445, 454.450, 454.455, 454.460, 454.465, 454.472, 454.478, 454.490, 454.495, 454.496, 454.500, 454.505, 454.513, 454.530, 454.531, 454.565, 454.600, 454.700, 454.853, 454.902, 454.1000, 454.1003, 454.1023, 454.1027, 454.1029, 483.163, 487.080, 487.150, 513.430, 516.350, 577.608, 590.040, 595.030, 595.036, 595.037, 595.060, 610.029,

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

610.120, 620.010, 620.483, 620.490, 620.556, 620.558, 620.560, 620.562, 620.566, 620.570, 620.572, 620.1100, 620.1580, 630.097, 632.070, 650.005, 660.010, 660.050, 660.053, 660.054, 660.055, 660.057, 660.058, 660.060, 660.062, 660.067, 660.069, 660.070, 660.075, 660.130, 660.225, 660.250, 660.255, 660.260, 660.261, 660.263, 660.265, 660.270, 660.275, 660.280, 660.285, 660.290, 660.295, 660.300, 660.305, 660.310, 660.315, 660.317, 660.320, 660.321, 660.400, 660.403, 660.405, 660.407, 660.409, 660.411, 660.414, 660.416, 660.418, 660.420, 660.523, 660.525, 660.526, 660.600, 660.603, 660.605, 660.608, 660.620, 660.690, and 701.336, RSMo, and to enact in lieu thereof three hundred forty-two new sections for the sole purpose of codifying previous executive branch reorganizations, with penalty provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Sections 3.060, 3.070, 8.700, 8.110, 8.115, 8.180, 8.200, 8.260, 8.310, 8.315, 8.316, 8.320, 8.325, 8.330, 8.340, 8.350, 8.360, 8.800, 8.830, 8.843, 33.710, 33.750, 33.752, 33.753, 33.756, 34.031, 36.030, 37.005, 37.010, 37.020, 37.110, 43.251, 64.090, 89.020, 135.326, 135.335, 135.339, 143.782, 143.790, 143.1002, 160.700, 160.545, 161.418, 161.424, 167.034, 167.122, 167.123, 169.520, 172.875, 181.110, 186.019, 189.095, 191.737, 191.850, 191.853, 191.855, 191.857, 191.858, 191.859, 191.861, 191.863, 191.865, 191.867, 192.601, 192.935, 193.075, 193.215, 196.1103, 197.312, 197.318, 197.367, 198.018, 198.026, 198.029, 198.077, 198.080, 198.087, 198.090, 198.189, 198.421, 198.428, 198.510, 198.515, 199.025, 205.960, 205.961, 205.962, 205.964, 205.965, 207.010, 207.020, 207.030, 207.070, 207.080, 208.015, 208.030, 208.041, 208.042, 208.047, 208.050, 208.060, 208.070, 208.072, 208.075, 208.080, 208.100, 208.120, 208.125, 208.130, 208.145, 208.150, 208.152, 208.154, 208.156, 208.157, 208.164, 208.165, 208.168, 208.175, 208.176, 208.180, 208.182,

208.190, 208.204, 208.210, 208.217, 208.225, 208.300, 208.325, 208.337, 208.345, 208.400, 208.405, 208.471, 208.477, 208.533, 208.606, 208.609, 208.621, 208.636, 208.780, 209.010, 209.020, 209.030, 209.050, 209.060, 209.070, 209.080, 209.090, 209.100, 209.110, 209.240, 209.251, 210.001, 210.115, 210.165, 210.166, 210.167, 210.192, 210.196, 210.254, 210.481, 210.536, 210.537, 210.543, 210.545, 210.551, 210.560, 210.720, 210.829, 210.830, 210.834, 210.843, 210.846, 210.870, 210.900, 210.950, 211.081, 211.180, 211.183, 211.455, 211.477, 217.575, 226.008, 226.805, 251.100, 251.240, 253.320, 261.010, 285.300, 288.220, 288.270, 301.020, 302.133, 302.134, 302.135, 302.137, 302.171, 302.178, 311.650, 313.210, 320.260, 324.032, 334.125, 338.314, 361.010, 376.819, 452.345, 452.346, 452.347, 452.350, 452.370, 452.416, 453.005, 453.014, 453.015, 453.026, 453.065, 453.070, 453.074, 453.077, 453.102, 453.110, 453.400, 454.400, 454.403, 454.405, 454.408, 454.415, 454.420, 454.425, 454.430, 454.432, 454.433, 454.435, 454.440, 454.445, 454.450, 454.455, 454.460, 454.465, 454.472, 454.478, 454.490, 454.495, 454.496, 454.500, 454.505, 454.513, 454.530, 454.531, 454.565, 454.600, 454.700, 454.853, 454.902, 454.1000, 454.1003, 454.1023, 454.1027, 454.1029, 483.163, 487.080, 487.150, 513.430, 516.350, 577.608, 590.040, 595.030, 595.036, 595.037, 595.060, 610.029, 610.120, 620.010, 620.483, 620.490, 620.556, 620.558, 620.560, 620.562, 620.566, 620.570, 620.572, 620.1100, 620.1580, 630.097, 632.070, 650.005, 660.010, 660.050, 660.053, 660.054, 660.055, 660.057, 660.058, 660.060, 660.062, 660.067, 660.069, 660.070, 660.075, 660.130, 660.225, 660.250, 660.255, 660.260, 660.261, 660.263, 660.265, 660.270, 660.275, 660.280, 660.285, 660.290, 660.295, 660.300,

660.305, 660.310, 660.315, 660.317, 660.320, 660.321, 660.400, 660.403, 660.405, 660.407, 660.409, 660.411, 660.414, 660.416, 660.418, 660.420, 660.523, 660.525, 660.526, 660.600, 660.603, 660.605, 660.608, 660.620, 660.690, and 701.336, RSMo, are repealed and three hundred forty-two new sections enacted in lieu thereof, to be known as sections 3.060, 3.070, 8.110, 8.115, 8.180, 8.200, 8.260, 8.310, 8.315, 8.316, 8.320, 8.325, 8.330, 8.340, 8.350, 8.360, 8.700, 8.800, 8.830, 8.843, 33.710, 34.031, 36.030, 37.005, 37.010, 37.013, 37.014, 37.016, 37.020, 37.110, 43.251, 64.090, 89.020, 135.326, 135.335, 135.339, 143.782, 143.790, 143.1002, 160.545, 160.700, 161.418, 161.424, 161.900, 161.905, 161.910, 161.915, 161.920, 161.925, 161.930, 161.935, 161.940, 161.945, 167.034, 167.122, 167.123, 169.520, 172.875, 181.110, 186.019, 189.095, 191.737, 192.601, 192.1000, 192.1002, 192.1004, 192.1006, 192.1008, 192.1010, 192.1012, 192.1020, 192.1022, 192.1024, 192.1030, 192.1040, 192.1042, 192.1044, 192.1046, 192.1048, 192.1050, 192.1052, 192.1054, 192.1056, 192.1058, 192.1060, 192.1062, 192.1064, 192.1066, 192.1080, 192.1082, 192.1084, 192.1086, 192.1088, 192.1090, 192.1092, 192.1094, 192.1096, 192.1097, 192.1098, 192.1100, 192.1102, 192.1104, 192.1106, 192.1108, 192.1110, 192.1112, 192.1114, 193.075, 193.215, 196.1103, 197.312, 197.318, 197.367, 198.018, 198.026, 198.029, 198.077, 198.080, 198.087, 198.090, 198.189, 198.421, 198.428, 198.510, 198.515, 205.960, 205.961, 205.962, 205.964, 205.965, 207.010, 207.020, 207.022, 207.030, 207.070, 207.080, 208.015, 208.030, 208.041, 208.042, 208.047, 208.050, 208.060, 208.070, 208.072, 208.075, 208.080, 208.100, 208.120, 208.125, 208.130, 208.145, 208.150, 208.152, 208.154, 208.156,

208.157, 208.164, 208.165, 208.168, 208.175, 208.176, 208.180, 208.182, 208.190, 208.204, 208.210, 208.217, 208.225, 208.300, 208.325, 208.337, 208.345, 208.400, 208.405, 208.471, 208.477, 208.533, 208.606, 208.609, 208.621, 208.636, 208.780, 209.010, 209.015, 209.020, 209.030, 209.050, 209.060, 209.070, 209.080, 209.090, 209.100, 209.110, 209.240, 209.251, 210.001, 210.115, 210.165, 210.166, 210.167, 210.192, 210.196, 210.254, 210.481, 210.536, 210.537, 210.543, 210.545, 210.551, 210.560, 210.720, 210.829, 210.830, 210.834, 210.843, 210.846, 210.870, 210.900, 210.950, 211.081, 211.180, 211.183, 211.455, 211.477, 217.575, 226.008, 226.805, 251.100, 251.240, 253.320, 261.010, 285.300, 288.220, 301.020, 302.133, 302.134, 302.135, 302.137, 302.171, 302.178, 311.650, 313.210, 320.260, 324.032, 334.125, 338.314, 361.010, 376.819, 452.345, 452.346, 452.347, 452.350, 452.370, 452.416, 453.005, 453.014, 453.015, 453.026, 453.065, 453.070, 453.074, 453.077, 453.102, 453.110, 453.400, 454.400, 454.403, 454.405, 454.408, 454.415, 454.420, 454.425, 454.430, 454.432, 454.433, 454.435, 454.440, 454.445, 454.450, 454.455, 454.460, 454.465, 454.472, 454.478, 454.490, 454.495, 454.496, 454.500, 454.505, 454.513, 454.530, 454.531, 454.565, 454.600, 454.700, 454.853, 454.902, 454.1000, 454.1003, 454.1023, 454.1027, 454.1029, 483.163, 487.080, 487.150, 513.430, 516.350, 577.608, 590.040, 595.030, 595.036, 595.037, 595.060, 610.029, 610.120, 620.010, 620.484, 620.490, 620.556, 620.558, 620.560, 620.562, 620.566, 620.570, 620.572, 620.1100, 620.1580, 621.275, 630.097, 632.070, 650.005, 660.010, 660.014, 660.075, 660.130, 660.523, 660.525, 660.526, 660.620, 660.690, and 701.336, to read as follows:

3.060. 1. The committee, in preparing editions of the statutes and supplements or pocket parts thereto, shall not alter the sense, meaning, or effect of any legislative act; but may renumber sections and parts of sections thereof, change the wording of headnotes, rearrange sections, change reference numbers or words to agree with renumbered chapters or sections, substitute the word "chapter" for "act" or "article" and the like, substitute figures for written words and vice versa and change capitalization for the purpose of uniformity and correct manifest clerical or typographical errors.

2. It may

(1) Correct therein all words misspelled in enrollment;

(2) Correct all manifest clerical errors, including punctuation, but no correction shall constitute an alteration of or a departure from the enrollment;

(3) Transfer sections or divide or combine sections so as to give to distinct subject matters a section number but without changing the meaning;

(4) Substitute therein the name of any agency, officer or instrumentality of the state or of a county to which powers, duties and responsibilities have been transferred by law, for the name of any other agency, officer or instrumentality of the state or of a county previously vested with the same powers and charged with the same duties and responsibilities;

(5) Incorporate executive department reorganizations under sections 26.500 to 26.540. Such authority is limited to name changes and movement of sections and subsections to the appropriate chapter law. In any such case the committee may add

a footnote calling attention to such correction and explaining the reason therefor;

(6) Supply any obvious omission or inaccuracy, which shall be identified in the text. In any such case the committee shall add a footnote calling attention to such omission or correction and explaining the reason therefor; and

[(6)**]** (7) Substitute therein the abbreviations: "RSMo" for "Missouri Revised Statutes", and "RSMo Supp." for any cumulative supplement to the Missouri Revised Statutes.

3.070. The committee shall appoint and fix the compensation of a revisor of statutes and other attorneys and assistants necessary to the performance of its duties under this chapter. The compensation of the revisor of statutes and his or her assistants and expenses incurred in connection with the performance of their duties shall be paid from appropriations made for the committee on legislative research. The revisor of statutes shall be duly licensed to practice law in this state and serves at the pleasure of the committee. The revisor of statutes shall perform all duties required by the committee in connection with its duties under this chapter. He or she shall conform to all regulations prescribed for the internal operation of the committee and shall render such assistance to the general assembly in connection with pending or proposed legislation as required by the committee or by any law imposing duties on the committee. He or she is subject also in all respects to the law governing other persons appointed or employed by the committee. The division of facilities management, design and construction shall provide adequate office space in the capitol building for

the revisor of statutes and the attorneys and employees associated with him or her.

8.110. There is hereby created within the office of administration a "Division of Facilities Management, Design**[,]** and Construction", which shall supervise the design, construction, renovations, maintenance, and repair of state facilities, except as provided in sections 8.015 and 8.017, and except those facilities belonging to the institutions of higher education, the highways and transportation commission, and the conservation commission, which shall be responsible to review all requests for appropriations for capital improvements. Except as otherwise provided by law, the director of the division of facilities management, design**[,]** and construction shall be responsible for the management and operation of office buildings titled in the name of the governor. The director shall exercise all diligence to ensure that all facilities within his or her management and control comply with the designated building codes; that they are clean, safe and secure, and in proper repair; and that they are adequately served by all necessary utilities.

8.115. Notwithstanding the provisions of chapter 571, the office of administration, division of facilities management, design and construction, is authorized to provide armed security guards at state-owned or leased facilities except at the seat of government and within the county which contains the seat of government, either through qualified persons employed by the office of administration, or through the use of a contract with a properly licensed firm.

8.180. In all cases where a court or other officer performs

any lawful service, at the instance of any director of the division of facilities management, design and construction in and about the collection of debts due the state, and the costs have not nor cannot be made out of the defendant, the director of the division of facilities management, design and construction shall pay the same fees that other plaintiffs are bound to pay for similar services, and no other.

8.200. The director of the division of facilities management, design and construction shall proceed against any sheriff or peace officer who refuses to perform any duty, in the name of the state, in the same way and to the full extent that any other plaintiff in an action might or could do.

8.260. All appropriations made by the general assembly amounting to one hundred thousand dollars or more for the construction, renovation, or repair of facilities shall be expended in the following manner:

(1) The agency requesting payment shall provide the commissioner of administration with satisfactory evidence that a bona fide contract, procured in accordance with all applicable procedures, exists for the work for which payment is requested;

(2) All requests for payment shall be approved by the architect or engineer registered to practice in the state of Missouri who designed the project or who has been assigned to oversee it;

(3) In order to guarantee completion of the contract, the agency or officer shall retain a portion of the contract value in accordance with the provisions of section 34.057;

(4) A contractor may be paid for materials delivered to the

site or to a storage facility approved by the director of the division of facilities management, design and construction as having adequate safeguards against loss, theft or conversion. In no case shall the amount contracted for exceed the amount appropriated by the general assembly for the purpose.

8.310. Any other provision of law to the contrary notwithstanding, no contracts shall be let for design, repair, renovation or construction without approval of the director of the division of facilities management, design and construction, and no claim for design, repair, construction or renovation projects under contract shall be accepted for payment by the commissioner of administration without approval by the director of the division of facilities management, design and construction; except that the department of conservation, the boards of curators of the state university and Lincoln University, the several boards of regents of the state colleges and the boards of trustees of the community colleges may contract for architectural and engineering services for the design and supervision of the construction, repair, maintenance or improvement of buildings or institutions and may contract for construction, repair, maintenance or improvement. The director of the division of facilities management, design and construction shall not be required to review any claim for payment under any such contract not originally approved by him or her. No claim under any contract executed by the department of conservation or an institution of higher learning, as provided above, shall be certified by the commissioner of administration unless the entity making the claim shall certify in writing that the payment sought

is in accordance with the contract executed by the entity and that the underlying construction, repair, maintenance or improvement conforms with applicable regulations promulgated by the director pursuant to section 8.320.

8.315. The director of facilities management, design and construction shall provide technical assistance to the director of the budget with regard to requests for capital improvement appropriations. The director shall review all capital improvement requests, including those made by the institutions of higher learning, the department of conservation or the highway commission, and shall recommend to the director of the budget and the governor those proposals which should be funded.

8.316. The division of facilities management, design and construction shall promulgate a method to accurately calculate the replacement cost of all buildings owned by public institutions of higher education. The method shall be developed in cooperation with such institutions and shall include the necessary components and factors to accurately calculate a replacement cost. The division shall utilize a procedure to allow differences to be resolved and may include an alternative calculation where the original cost plus an inflation factor is utilized to determine a replacement cost value.

8.320. The director of the division of facilities management, design and construction shall set forth reasonable conditions to be met and procedures to be followed in the repair, maintenance, operation, construction and administration of state facilities. The conditions and procedures shall be codified and filed with the secretary of state in accordance with the

provisions of the constitution. No payment shall be made on claims resulting from work performed in violation of these conditions and procedures, as certified by the director of the division of facilities management, design and construction.

8.325. 1. In addition to providing the general assembly with estimates of the cost of completing a proposed capital improvement project, the division of facilities management, design and construction shall provide the general assembly, at the same time as the division submits the estimate of the capital improvement costs for the proposed capital improvement project, an estimate of the operating costs of such completed capital improvement project for its first full year of operation. Such estimate shall include, but not be limited to, an estimate of the cost of:

(1) Personnel directly related to the operation of the completed capital improvement project, such as janitors, security, and other persons who would provide necessary services for the completed project or facility;

(2) Utilities for the completed project or facility; and

(3) Any maintenance contracts which would be entered into in order to provide services for the completed project or facility, such as elevator maintenance, boiler maintenance, and other similar service contracts with private contractors to provide maintenance services for the completed project or facility.

2. The costs estimates required by this section shall clearly indicate the additional operating costs of the building or facility due to the completion of the capital improvement

project where such proposed project is for an addition to an existing building or facility.

3. Any agency of state government which removes from rental quarters or state-owned buildings because of defective conditions or any other state personnel shall be prevented from reoccupation of those quarters for a period of three years unless such defective conditions are renovated within a reasonable time before reoccupation.

8.330. The director of the division of facilities management, design and construction may secure information and data relating to state facilities from all departments and agencies of the state and each department and agency shall furnish information and data when requested by the director of the division of facilities management, design and construction. All information and data collected by the director of the division of facilities management, design and construction is available at all times to the general assembly upon request.

8.340. The director of the division of facilities management, design and construction shall assemble and maintain complete files of information on the repair, utilization, cost and other data for all state facilities, including power plants, pump houses and similar facilities. He or she shall also assemble and maintain files containing a full legal description of all real estate owned by the state and blueprints of all state facilities.

8.350. The director of the division of facilities management, design and construction shall deliver to his or her successor all property and papers of every kind in his or her

possession, relative to the affairs of state, make an inventory thereof, upon which he or she shall take a receipt of his or her successor, and deliver the same to the secretary of state.

8.360. The director of the division of facilities management, design and construction shall inspect all facilities and report to the general assembly at the commencement of each regular session on their condition, maintenance, repair and utilization.

8.700. As used in sections 8.700 to 8.745, unless the context clearly indicates otherwise, the following terms mean:

(1) "Blind person", a person who, after examination by a physician skilled in diseases of the eye or by an optometrist, whichever such person shall select, has been determined to have not more than 20/200 central visual acuity in the better eye with correcting lenses, or an equally disabling loss of the visual field as evidenced by a limitation to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20`;

(2) "Licensing agent", the **[**bureau of**]** rehabilitation services for the blind of the family support division **[**of family services**]**;

(3) "Vending facility", a location which may sell, at wholesale or retail, food or food products, beverages, confections, newspapers, books, periodicals, tobacco products and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with applicable health laws. A "vending facility" may consist, exclusively or in appropriate combination, of automatic vending machines,

cafeterias, snack bars, cart service, shelters, counters and such appropriate equipment as the licensing agent may by regulation prescribe as being necessary for the sale of the articles or services described in this subdivision. A "vending facility" may encompass more than one building.

8.800. As used in sections 8.800 to 8.825, the following terms mean:

(1) "Builder", the prime contractor that hires and coordinates building subcontractors or if there is no prime contractor, the contractor that completes more than fifty percent of the total construction work performed on the building. Construction work includes, but is not limited to, foundation, framing, wiring, plumbing and finishing work;

(2) "Department", the department of natural resources;

(3) "Designer", the architect, engineer, landscape architect, builder, interior designer or other person who performs the actual design work or is under the direct supervision and responsibility of the person who performs the actual design work;

(4) "District heating and cooling systems", heat pump systems which use waste heat from factories, sewage treatment plants, municipal solid waste incineration, lighting and other heat sources in office buildings or which use ambient thermal energy from sources including temperature differences in rivers to provide regional heating or cooling;

(5) "Division", the division of <u>facilities management,</u> design and construction;

(6) "Energy efficiency", the increased productivity or

effectiveness of energy resources use, the reduction of energy consumption, or the use of renewable energy sources;

(7) "Gray water", all domestic wastewater from a state building except wastewater from urinals, toilets, laboratory sinks, and garbage disposals;

(8) "Life cycle costs", the costs associated with the initial construction or renovation and the proposed energy consumption, operation and maintenance costs over the useful life of a state building or over the first twenty-five years after the construction or renovation is completed;

(9) "Public building", a building owned or operated by a governmental subdivision of the state, including, but not limited to, a city, county or school district;

(10) "Renewable energy source", a source of thermal, mechanical or electrical energy produced from solar, wind, low-head hydropower, biomass, hydrogen or geothermal sources, but not from the incineration of hazardous waste, municipal solid waste or sludge from sewage treatment facilities;

(11) "State agency", a department, commission, authority, office, college or university of this state;

(12) "State building", a building owned by this state or an agency of this state;

(13) "Substantial renovation" or "substantially renovated", modifications that will affect at least fifty percent of the square footage of the building or modifications that will cost at least fifty percent of the building's fair market value.

8.830. For purposes of sections 8.830 to 8.851, the following terms mean:

(1) "Department", the department of natural resources;

(2) "Director", the director of the department of natural resources;

(3) "Division", the division of facilities management, design and construction;

(4) "Public building", a building owned or operated by a governmental subdivision of the state, including, but not limited to, a city, county or school district;

(5) "State building", a building owned or operated by the state, a state agency or department, a state college or a state university.

8.843. There is hereby established an interagency advisory committee on energy cost reduction and savings. The committee shall consist of the commissioner of administration, the director of the division of facilities management, design and construction, the director of the department of natural resources, the director of the environmental improvement and energy resources authority, the director of the division of energy, the director of the department of transportation, the director of the department of conservation and the commissioner of higher education. The committee shall advise the department on the development of the minimum energy efficiency standard and state building energy efficiency rating system and shall assist the office of administration in implementing sections 8.833 and 8.835.

33.710. 1. There is created "The Governmental Emergency Fund Committee" consisting of the governor, the commissioner of administration, the chairman and ranking minority member of the

senate appropriations committee, the chairman and ranking minority member of the house [appropriations] budget committee, or its successor committee, and the director of the division of facilities management, design and construction who shall serve as consultant to the committee without vote.

2. The members of the committee shall serve without compensation but shall be reimbursed for actual and necessary expenses incurred by them in the performance of their official duties.

3. The committee shall elect from among its members a chairman and vice chairman and such other officers as it deems necessary.

34.031. 1. The commissioner of administration, in consultation with the environmental improvement and energy resources authority of the department of natural resources, shall give full consideration to the purchase of products made from materials recovered from solid waste and to the reduction and ultimate elimination of purchases of products manufactured in whole or in part of thermoformed or other extruded polystyrene foam manufactured using any fully halogenated chlorofluorocarbon (CFC). Products that utilize recovered materials of a price and quality comparable to products made from virgin materials shall be sought and purchased, with particular emphasis on recycled oil, retread tires, compost materials and recycled paper products. The commissioner shall exercise a preference for such products if their use is technically feasible and, where a bid is required, their price is equal to, or less than, the price of items which are manufactured or produced from virgin materials.

Products that would be inferior, violate safety standards or violate product warranties if the provisions of this section are followed may be excluded from the provisions of this section.

2. The commissioner of administration shall:

(1) Review the procurement specifications in order to eliminate discrimination against the procurement of recycled products;

(2) Review and modify the contract specifications for paper products and increase the minimum required percentage of recycled paper in each product as follows:

(a) Forty percent recovered materials for newsprint;

(b) Eighty percent recovered materials for paperboard;

(c) Fifty percent waste paper in high grade printing and writing paper;

(d) Five to forty percent in tissue products;

(3) Support federal incentives and policy guidelines designed to promote these goals;

(4) Develop and implement a cooperative procurement policy to facilitate bulk order purchases and to increase availability of recycled products. The policy shall be distributed to all state agencies and shall be made available to political subdivisions of the state;

(5) Conduct a survey using existing staff of those items customarily required by the state that are manufactured in whole or part from polystyrene plastic, and report its findings, together with an analysis of environmentally acceptable alternatives thereto, prepared in collaboration with the department of natural resources, to the general assembly and

every state agency within six months of August 28, 1995.

3. Notwithstanding the provisions of this section, no state agency may purchase any food or beverage containers or wrapping manufactured from any polystyrene foam manufactured using any fully halogenated chlorofluorocarbon (CFC) found by the United States Environmental Protection Agency (EPA) to be an ozone-depleting chemical.

4. No state agency may purchase any items made in whole or part of thermoformed or other extruded polystyrene foam manufactured using any fully halogenated chlorofluorocarbon (CFC) found by the United States Environmental Protection Agency (EPA) to be an ozone-depleting chemical without approval from the commissioner of administration. Approval shall not be granted unless the purchasing agency demonstrates to the satisfaction of the director of the department of natural resources and the commissioner that there is no environmentally more acceptable alternatives or the quality of such alternatives is not adequate for the purpose intended.

5. For each paper product type and corresponding recycled paper content standard pursuant to subdivision (2) of subsection 2 of this section, attainment goals for the percentage of paper products to be purchased that utilize post-consumer recovered materials shall be:

(1) Ten percent in 1991 and 1992;

(2) Twenty-five percent in 1993 and 1994;

(3) Forty percent in 1995; and

(4) Sixty percent by 2000.

6. In the review of capital improvement projects for

buildings and facilities of state government, the commissioner of administration shall direct the division of facilities management, design and construction to give full consideration to alternatives which use solid waste, as defined in section 260.200, as a fuel for energy production or which use products composed of materials recovered from solid waste.

7. The commissioner of administration, in consultation with the environmental improvement and energy resources authority of the department of natural resources, shall prepare and provide by January first of each year an annual report summarizing past activities and accomplishments of the program and proposed goals of the program including projections for each affected agency. The report shall also include a list of products utilizing recovered materials that could substitute for products currently purchased and a schedule of amounts purchased of products utilizing recovered materials compared to purchases of similar products utilizing virgin materials for the period covered by the annual report.

8. The office of administration, department of natural resources and department of economic development shall cooperate jointly and share to the greatest extent possible, information and other resources to promote:

(1) Producers or potential producers of secondary material goods to expand or develop their product lines;

(2) Increased demand for secondary materials recovered in Missouri; and

(3) Increased demand by state government for products which contain secondary materials recovered in Missouri.

9. The commissioner of administration may increase minimum recycled content percentages for paper products, minimum recycled content percentages for other recycled products and establish minimum post-consumer content as such products become available. The preference provided in subsection 1 of this section shall apply to the minimum standards established by the commissioner.

36.030. 1. A system of personnel administration based on merit principles and designed to secure efficient administration is established for all offices, positions and employees, except attorneys, of the department of social services, the department of corrections, the department of health and senior services, the department of natural resources, the department of mental health, the division of personnel and other divisions and units of the office of administration, the division of employment security, mine safety and on-site consultation sections of the division of labor standards and administration operations of the department of labor and industrial relations, the division of tourism and **[**job development and training**]** division of workforce development, the Missouri housing development commission, and the office of public counsel of the department of economic development, the Missouri veterans commission, capitol police and state emergency management agency of the department of public safety, such other agencies as may be designated by law, and such other agencies as may be required to maintain personnel standards on a merit basis by federal law or regulations for grant-in-aid programs; except that, the following offices and positions of these agencies are not subject to this chapter and may be filled without regard to its provisions:

(1) Other provisions of the law notwithstanding, members of boards and commissions, departmental directors, five principal assistants designated by the departmental directors, division directors, and three principal assistants designated by each division director; except that, these exemptions shall not apply to the division of personnel;

(2) One principal assistant for each board or commission, the members of which are appointed by the governor or by a director of the department;

(3) Chaplains and attorneys regularly employed or appointed in any department or division subject to this chapter, except as provided in section 36.031;

(4) Persons employed in work assignments with a geographic location principally outside the state of Missouri and other persons whose employment is such that selection by competitive examination and standard classification and compensation practices are not practical under all the circumstances as determined by the board by rule; (5) Patients or inmates in state charitable, penal and correctional institutions who may also be employees in the institutions;

(6) Persons employed in an internship capacity in a state department or institution as a part of their formal training, at a college, university, business, trade or other technical school; except that, by appropriate resolution of the governing authorities of any department or institution, the personnel division may be called upon to assist in selecting persons to be appointed to internship positions;

(7) The administrative head of each state medical, penal

and correctional institution, as warranted by the size and complexity of the organization and as approved by the board;

(8) Deputies or other policy-making assistants to the exempt head of each division of service, as warranted by the size or complexity of the organization and in accordance with the rules promulgated by the personnel advisory board;

(9) Special assistants as designated by an appointing authority; except that, the number of such special assistants shall not exceed one percent of a department's total authorized full-time equivalent workforce;

(10) Merit status shall be retained by present incumbents of positions identified in this section which have previously been subject to this chapter.

2. All positions in the executive branch transferred to coverage pursuant to this chapter where incumbents of such positions have at least twelve months' prior service on the effective date of such transfer shall have incumbency preference and shall be permitted to retain their positions, provided they meet qualification standards acceptable to the division of personnel of the office of administration. An employee with less than twelve months of prior service on the effective date of such transfer or an employee who is appointed to such position after the effective date of such transfer and prior to the classification and allocation of the position by the division of personnel shall be permitted to retain his or her position, provided he or she meets acceptable qualification standards and subject to successful completion of a working test period which shall not exceed twelve months of total service in the position.

After the allocation of any position to an established classification, such position shall thereafter be filled only in accordance with all provisions of this chapter.

3. The system of personnel administration governs the appointment, promotion, transfer, layoff, removal and discipline of employees and officers and other incidents of employment in divisions of service subject to this chapter, and all appointments and promotions to positions subject to this chapter shall be made on the basis of merit and fitness.

4. To encourage all state employees to improve the quality of state services, increase the efficiency of state work operations, and reduce the costs of state programs, the director of the division of personnel shall establish employee recognition programs, including a statewide employee suggestion system. The director shall determine reasonable rules and shall provide reasonable standards for determining the monetary awards, not to exceed five thousand dollars, under the employee suggestion system. Awards shall be made from funds appropriated for this purpose.

5. At the request of the senate or the house of representatives, the commissioner of administration shall submit a report on the employee suggestion award program described in subsection 4 of this section.

37.005. 1. Except as provided herein, the office of administration shall be continued as set forth in house bill 384, seventy-sixth general assembly and shall be considered as a department within the meaning used in the Omnibus State Reorganization Act of 1974. The commissioner of administration

shall appoint directors of all major divisions within the office of administration.

2. The commissioner of administration shall be a member of the governmental emergency fund committee as ex officio comptroller and the director of the department of revenue shall be a member in place of the **[**chief of the planning and construction division**]** director of the division of facilities management, design and construction.

3. The office of administration is designated the "Missouri State Agency for Surplus Property" as required by Public Law 152, eighty-first Congress as amended, and related laws for disposal of surplus federal property. All the powers, duties and functions vested by sections 37.075 and 37.080, and others, are transferred by type I transfer to the office of administration as well as all property and personnel related to the duties. The commissioner shall integrate the program of disposal of federal surplus property with the processes of disposal of state surplus property to provide economical and improved service to state and local agencies of government. The governor shall fix the amount of bond required by section 37.080. All employees transferred shall be covered by the provisions of chapter 36 and the Omnibus State Reorganization Act of 1974.

4. The commissioner of administration shall replace the director of revenue as a member of the board of fund commissioners and assume all duties and responsibilities assigned to the director of revenue by sections 33.300 to 33.540 relating to duties as a member of the board and matters relating to bonds and bond coupons.

5. All the powers, duties and functions of the administrative services section, section 33.580 and others, are transferred by a type I transfer to the office of administration and the administrative services section is abolished.

6. The commissioner of administration shall, in addition to his or her other duties, cause to be prepared a comprehensive plan of the state's field operations, buildings owned or rented and the communications systems of state agencies. Such a plan shall place priority on improved availability of services throughout the state, consolidation of space occupancy and economy in operations.

7. The commissioner of administration shall from time to time examine the space needs of the agencies of state government and space available and shall, with the approval of the board of public buildings, assign and reassign space in property owned, leased or otherwise controlled by the state. Any other law to the contrary notwithstanding, upon a determination by the commissioner that all or part of any property is in excess of the needs of any state agency, the commissioner may lease such property to a private or government entity. Any revenue received from the lease of such property shall be deposited into the fund or funds from which moneys for rent, operations or purchase have been appropriated. The commissioner shall establish by rule the procedures for leasing excess property.

8. The commissioner of administration is hereby authorized to coordinate and control the acquisition and use of **[**electronic data processing (EDP) and automatic data processing (ADP)**]** network, telecommunications, and data processing services in the

executive branch of state government. For this purpose, the office of administration will have authority to:

(1) Develop and implement a long-range computer facilities plan for the use of [EDP and ADP] network, telecommunications, and data processing services in Missouri state government. Such plan may cover, but is not limited to, operational standards, standards for the establishment, function and management of service centers, coordination of the data processing education, and planning standards for application development and implementation;

(2) Approve all additions and deletions of [EDP and ADP] network, telecommunications, and data processing services hardware, software, and support services, and service centers;

(3) Establish standards for the development of annual data processing application plans for each of the service centers. These standards shall include review of post-implementation audits. These annual plans shall be on file in the office of administration and shall be the basis for equipment approval requests;

(4) Review of all state [EDP and ADP] network, telecommunications, and data processing services applications to assure conformance with the state information systems plan, and the information systems plans of state agencies and service centers;

(5) Establish procurement procedures for [EDP and ADP] network, telecommunications, and data processing services hardware, software, and support service;

(6) Establish a charging system to be used by all service

centers when performing work for any agency;

(7) Establish procedures for the receipt of service center charges and payments for operation of the service centers. The commissioner shall maintain a complete inventory of all state-owned or -leased **[**EDP and ADP**]** network, telecommunications, and data processing services equipment, and annually submit a report to the general assembly which shall include starting and ending **[**EDP and ADP**]** network, telecommunications, and data processing services costs for the fiscal year previously ended, and the reasons for major increases or variances between starting and ending costs. The commissioner shall also adopt, after public hearing, rules and regulations designed to protect the rights of privacy of the citizens of this state and the confidentiality of information contained in computer tapes or other storage devices to the maximum extent possible consistent with the efficient operation of the office of administration and contracting state agencies.

9. Except as provided in subsection 12 of this section, the fee title to all real property now owned or hereafter acquired by the state of Missouri, or any department, division, commission, board or agency of state government, other than real property owned or possessed by the state highways and transportation commission, conservation commission, state department of natural resources, and the University of Missouri, shall on May 2, 1974, vest in the governor. The governor may not convey or otherwise transfer the title to such real property, unless such conveyance or transfer is first authorized by an act of the general assembly. The provisions of this subsection requiring

authorization of a conveyance or transfer by an act of the general assembly shall not, however, apply to the granting or conveyance of an easement to any rural electric cooperative as defined in chapter 394, municipal corporation, quasi-governmental corporation owning or operating a public utility, or a public utility, except railroads, as defined in chapter 386. The governor, with the approval of the board of public buildings, may, upon the request of any state department, agency, board or commission not otherwise being empowered to make its own transfer or conveyance of any land belonging to the state of Missouri which is under the control and custody of such department, agency, board or commission, grant or convey without further legislative action, for such consideration as may be agreed upon, easements across, over, upon or under any such state land to any rural electric cooperative, as governed in chapter 394, municipal corporation, or quasi-governmental corporation owning or operating a public utility, or a public utility, except railroad, as defined in chapter 386. The easement shall be for the purpose of promoting the general health, welfare and safety of the public and shall include the right of ingress or egress for the purpose of constructing, maintaining or removing any pipeline, power line, sewer or other similar public utility installation or any equipment or appurtenances necessary to the operation thereof, except that railroad as defined in chapter 386 shall not be included in the provisions of this subsection unless such conveyance or transfer is first authorized by an act of the general assembly. The easement shall be for such consideration as may be agreed upon by the parties and approved by the board of

public buildings. The attorney general shall approve the form of the instrument of conveyance. The commissioner of administration shall prepare management plans for such properties in the manner set out in subsection 7 of this section.

10. The commissioner of administration shall administer a revolving "Administrative Trust Fund" which shall be established by the state treasurer which shall be funded annually by appropriation and which shall contain moneys transferred or paid to the office of administration in return for goods and services provided by the office of administration to any governmental entity or to the public. The state treasurer shall be the custodian of the fund, and shall approve disbursements from the fund for the purchase of goods or services at the request of the commissioner of administration or the commissioner's designee. The provisions of section 33.080 notwithstanding, moneys in the fund shall not lapse, unless and then only to the extent to which the unencumbered balance at the close of any fiscal year exceeds one-eighth of the total amount appropriated, paid, or transferred to the fund during such fiscal year, and upon approval of the oversight division of the joint committee on legislative research. The commissioner shall prepare an annual report of all receipts and expenditures from the fund.

11. All the powers, duties and functions of the department of community affairs relating to statewide planning are transferred by type I transfer to the office of administration.

12. The titles which are vested in the governor by or pursuant to this section to real property assigned to any of the educational institutions referred to in section 174.020 on June

15, 1983, are hereby transferred to and vested in the board of regents of the respective educational institutions, and the titles to real property and other interests therein hereafter acquired by or for the use of any such educational institution, notwithstanding provisions of this section, shall vest in the board of regents of the educational institution. The board of regents may not convey or otherwise transfer the title to or other interest in such real property unless the conveyance or transfer is first authorized by an act of the general assembly, except as provided in section 174.042, and except that the board of regents may grant easements over, in and under such real property without further legislative action.

13. Notwithstanding any provision of subsection 12 of this section to the contrary, the board of governors of Missouri Western State University, University of Central Missouri, Missouri State University, or Missouri Southern State University, or the board of regents of Southeast Missouri State University, Northwest Missouri State University, or Harris-Stowe State University, or the board of curators of Lincoln University may convey or otherwise transfer for fair market value, except in fee simple, the title to or other interest in such real property without authorization by an act of the general assembly. The provisions of this subsection shall expire August 28, 2017.

14. All county sports complex authorities, and any sports complex authority located in a city not within a county, in existence on August 13, 1986, and organized under the provisions of sections 64.920 to 64.950, are assigned to the office of administration, but such authorities shall not be subject to the

provisions of subdivision (4) of subsection 6 of section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo, as amended.

15. All powers, duties, and functions vested in the administrative hearing commission, sections 621.015 to 621.205 and others, are transferred to the office of administration by a type III transfer.

37.010. 1. The governor, by and with the advice and consent of the senate, shall appoint a commissioner of administration, who shall head the "Office of Administration" which is hereby created. The commissioner of administration shall receive a salary as provided by law and shall also receive his or her actual and necessary expenses incurred in the discharge of his or her official duties. Before taking office, the commissioner of administration shall take and subscribe an oath or affirmation to support the Constitution of the United States and of this state, and to demean himself or herself faithfully in office. **[**He**]** The commissioner shall also deposit with the governor a bond, with sureties to be approved by the governor, in the amount to be determined by the governor payable to the state of Missouri, conditioned on the faithful performance of the duties of his or her office. The premium of this bond shall be paid out of the appropriation for the office of the governor.

2. The governor shall appoint the commissioner of administration with the advice and consent of the senate. The commissioner shall be at least thirty years of age and must have been a resident and qualified voter of this state for the five

years next preceding his appointment. He or she must be qualified by training and experience to assume the managerial and administrative functions of the office of commissioner of administration.

3. The commissioner of administration shall, by virtue of his or her office, without additional compensation, head the division of budget, the division of purchasing, the division of facilities management, design and construction, and the information technology services division [of electronic data processing coordination]. Whenever provisions of the constitution grant powers, impose duties or make other reference to the comptroller, they shall be construed as referring to the commissioner of administration.

4. The commissioner of administration shall provide the governor with such assistance in the supervision of the executive branch of state government as the governor requires and shall perform such other duties as are assigned to him or her by the governor or by law. The commissioner of administration shall work with other departments of the executive branch of state government to promote economy, efficiency and improved service in the transaction of state business. The commissioner of administration, with the approval of the governor, shall organize the work of the office of administration in such manner as to obtain maximum effectiveness of the personnel of the office. He may consolidate, abolish or reassign duties of positions or divisions combined within the office of administration, except for the division of personnel. He or she may delegate specific duties to subordinates. These subordinates shall take the same

oath as the commissioner and shall be covered by the bond of the director or by separate bond as required by the governor.

5. The personnel division, personnel director and personnel advisory board as provided in chapter 36 shall be in the office of administration. The personnel director and employees of the personnel division shall perform such duties as directed by the commissioner of administration for personnel work in agencies and departments of state government not covered by the merit system law to upgrade state employment and to improve the uniform quality of state employment.

6. The commissioner of administration shall prepare a complete inventory of all real estate, buildings and facilities of state government and an analysis of their utilization. Each year he or she shall formulate and submit to the governor a long-range plan for the ensuing five years for the repair, construction and rehabilitation of all state properties. The plan shall set forth the projects proposed to be authorized in each of the five years with each project ranked in the order of urgency of need from the standpoint of the state as a whole and shall be upgraded each year. Project proposals shall be accompanied by workload and utilization information explaining the need and purpose of each. Departments shall submit recommendations for capital improvement projects and other information in such form and at such times as required by the commissioner of administration to enable him or her to prepare the long-range plan. The commissioner of administration shall prepare the long-range plan together with analysis of financing available and suggestions for further financing for approval of

the governor who shall submit it to the general assembly. The long-range plan shall include credible estimates for operating purposes as well as capital outlay and shall include program data to justify need for the expenditures included. The long-range plan shall be extended, revised and resubmitted in the same manner to accompany each executive budget. The appropriate recommendations for the period for which appropriations are to be made shall be incorporated in the executive budget for that period together with recommendations for financing. Each revised long-range plan shall provide a report on progress in the repair, construction and rehabilitation of state properties and of the operating purposes program for the preceding fiscal period in terms of expenditures and meeting program goals.

7. All employees of the office of administration, except the commissioner and not more than three other executive positions designated by the governor in an executive order, shall be subject to the provisions of chapter 36. The commissioner shall appoint all employees of the office of administration and may discharge the employees after proper hearing, provided that the employment and discharge conform to the practices governing selection and discharge of employees in accordance with the provisions of chapter 36.

8. The office of the commissioner of administration shall be in Jefferson City.

9. In case of death, resignation, removal from office or vacancy from any cause in the office of commissioner of administration, the governor shall take charge of the office and superintend the business thereof until a successor is appointed,

commissioned and qualified.

[33.750.**]** 37.013. As used in this section and section **[**33.752**]** 37.014:

(1) "Commission" refers to the Missouri minority business **[**development**]** advocacy commission established under section **[**33.752**]** 37.014;

(2) "Contract" means any contract awarded by a state agency for construction projects or the procurement of goods or services, including professional services;

(3) "Minority business enterprise" or "minority business" means an individual, partnership, corporation, or joint venture of any kind that is owned and controlled by one or more persons who are:

(a) United States citizens; and

(b) Members of a racial minority group;

(4) "Owned and controlled" means having:

(a) Ownership of at least fifty-one percent of the enterprise, including corporate stock of a corporation;

(b) Control over the management and day-to-day operations of the business; and

(c) An interest in the capital, assets, and profits and losses of the business proportionate to the percentage of ownership;

(5) "Racial minority group" means:

(a) Blacks;

(b) American Indians;

(c) Hispanics;

(d) Asian Americans; and

(e) Other similar racial minority groups;

(6) "State agency" refers to an authority, board, branch, commission, committee, department, division, or other instrumentality of the executive branch of state government.

[33.752.**]** 37.014. 1. There is hereby established the "Missouri Minority Business Advocacy Commission". The commission shall consist of nine members:

(1) The director of the department of economic development;

(2) The commissioner of the office of administration;

(3) Three minority business persons, appointed by the governor, one of whom shall be designated chairman of the commission;

(4) Two members of the house of representatives appointed by the speaker of the house of representatives;

(5) Two members of the senate appointed by the president pro tempore of the senate. No more than two of the three members appointed by the governor may be of the same political party. Appointed members of the commission shall serve four-year terms, except that of the initial appointments made by the governor, one shall be for a two-year term, one shall be for a three-year term and one shall be for a four-year term. A vacancy occurs if a legislative member leaves office for any reason. Any vacancy on the commission shall be filled in the same manner as the original appointment.

2. **[**The department of economic development and the office of administration shall develop a plan to increase procurements from minority businesses by all state departments and submit that plan to the governor by July, 1994.

3.**]** Each member appointed by the governor shall receive as compensation a per diem of up to thirty-five dollars for each day devoted to the affairs of the commission and be reimbursed for his or her actual and necessary expenses incurred in the discharge of his or her official duties.

[4.**]** 3. Each legislative member of the commission is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on interim committees. The allowances specified in this subsection shall be paid from the amounts appropriated for that purpose.

[5.**]** 4. The commission shall meet at least three times each year and at other times as the chairman deems necessary.

[6.**]** 5. The duties of the commission shall include, but not be limited to, the following:

(1) Identify minority businesses in the state;

(2) Assess the needs of minority businesses;

(3) Initiate aggressive programs to assist minority businesses in obtaining state contracts and federal agency procurements;

(4) Give special publicity to procurement, bidding, and qualifying procedures;

(5) Include minority businesses on solicitation mailing lists;

(6) Make recommendations regarding policies, programs and procedures to be implemented by the commissioner of the office of administration;

(7) Prepare and maintain timely data on minority business qualified to bid on state and federal procurement projects;

(8) Prepare a review of the commission and the various affected departments of government to be submitted to the governor and the general assembly on March first and October first of each year, evaluating progress made in the areas defined in this subsection;

(9) Provide a focal point and assist and counsel minority small businesses in their dealings with federal, state and local governments regarding the obtaining of business licenses and permits, including, but not limited to, providing ready access to information regarding government requirements which affect minority small business;

(10) Analyze current legislation and regulation as it affects minority business for the purpose of determining methods of elimination or simplification of unnecessary regulatory requirements;

(11) Assist minority businesses in obtaining available technical and financial assistance;

(12) Initiate and encourage minority business education programs, including programs in cooperation with various public and private educational institutions;

(13) Receive complaints and recommendations concerning policies and activities of federal, state and local governmental agencies which affect minority small businesses, and develop, in cooperation with the agency involved, proposals for changes in policies or activities to alleviate any unnecessary adverse effects to minority small business.

[7.**]** 6. The **[**department of economic development**]** office of administration shall furnish administrative support and staff for

the effective operation of the commission.

[33.756.**]** 37.016. The minority business **[**development**]** advocacy commission shall consult with the tourism commission in establishing rules and regulations for African-American and other minority business participation.

37.020. 1. As used in this section, the following words and phrases mean:

(1) "Certification", the determination, through whatever procedure is used by the office of administration, that a legal entity is a socially and economically disadvantaged small business concern for purposes of this section;

(2) "Department", the office of administration and any public institution of higher learning in the state of Missouri;

(3) "Minority business enterprise", a business that is:

(a) A sole proprietorship owned and controlled by a minority;

(b) A partnership or joint venture owned and controlled by minorities in which at least fifty-one percent of the ownership interest is held by minorities and the management and daily business operations of which are controlled by one or more of the minorities who own it; or

(c) A corporation or other entity whose management and daily business operations are controlled by one or more minorities who own it, and which is at least fifty-one percent owned by one or more minorities, or if stock is issued, at least fifty-one percent of the stock is owned by one or more minorities;

(4) "Socially and economically disadvantaged individuals",

individuals, regardless of gender, who have been subjected to racial, ethnic, or sexual prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities and whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area. In determining the degree of diminished credit and capital opportunities the office of administration shall consider, but not be limited to, the assets and net worth of such individual;

(5) "Socially and economically disadvantaged small business concern", any small business concern:

(a) Which is at least fifty-one percentum owned by one or more socially and economically disadvantaged individuals; or, in the case of any publicly owned business, at least fifty-one percentum of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(b) Whose management and daily business operations are controlled by one or more of such individuals;

(6) "Women's business enterprise", a business that is:

(a) A sole proprietorship owned and controlled by a woman;

(b) A partnership or joint venture owned and controlled by women in which at least fifty-one percent of the ownership interest is held by women and the management and daily business operations of which are controlled by one or more of the women who own it; or

(c) A corporation or other entity whose management and daily business operations are controlled by one or more women who own it, and which is at least fifty-one percent owned by women,

or if stock is issued, at least fifty-one percent of the stock is owned by one or more women.

2. The office of administration, in consultation with each department, shall establish and implement a plan to increase and maintain the participation of certified socially and economically disadvantaged small business concerns or minority business enterprises, directly or indirectly, in contracts for supplies, services, and construction contracts, consistent with goals determined after an appropriate study conducted to determine the availability of socially and economically disadvantaged small business concerns and minority business enterprises in the marketplace. **[**Such study shall be completed by December 31, 1991.**]** The commissioner of administration shall appoint an oversight review committee to oversee and review the results of such study. The committee shall be composed of nine members, four of whom shall be members of business, three of whom shall be from staff of selected departments, one of whom shall be a member of the house of representatives, and one of whom shall be a member of the senate.

3. The goals to be pursued by each department under the provisions of this section shall be construed to overlap with those imposed by federal law or regulation, if any, shall run concurrently therewith and shall be in addition to the amount required by federal law only to the extent the percentage set by this section exceeds those required by federal law or regulations.

37.110. The commissioner of administration shall establish **[**a data processing unit**]** <u>the information technology services</u>

division within the office, and this unit shall make recommendations and suggestions to all agencies and departments, and to the general assembly. No state data processing equipment shall be added or disposed of by any state agency by sale, lease or otherwise without the approval of this unit.

43.251. 1. The **[**Missouri division of highway safety**]** state highways and transportation commission shall prepare and upon request supply to police departments, sheriffs, and other appropriate agencies or individuals forms for written accident reports as required by section 43.250 and this section. Reports shall call for sufficiently detailed information to disclose, with reference to a vehicle accident, the cause, conditions then existing and the persons and vehicles involved.

2. Every written or computer-generated accident report required to be made shall be submitted on the appropriate form or in the appropriate computer format approved by the superintendent of the Missouri state highway patrol and shall contain all the information required therein unless not available.

64.090. 1. For the purpose of promoting health, safety, morals, comfort or the general welfare of the unincorporated portion of counties, to conserve and protect property and building values, to secure the most economical use of the land, and to facilitate the adequate provision of public improvements all in accordance with a comprehensive plan, the county commission in all counties of the first class, as provided by law, except in counties of the first class not having a charter form of government, is hereby empowered to regulate and restrict, by order, in the unincorporated portions of the county, the

height, number of stories and size of buildings, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, the location and use of buildings, structures and land for trade, industry, residence or other purposes, including areas for agriculture, forestry and recreation.

2. The provisions of this section shall not apply to the incorporated portions of the counties, nor to the raising of crops, livestock, orchards, or forestry, nor to seasonal or temporary impoundments used for rice farming or flood irrigation. As used in this section, the term "rice farming or flood irrigation" means small berms of no more than eighteen inches high that are placed around a field to hold water for use for growing rice or for flood irrigation. This section shall not apply to the erection, maintenance, repair, alteration or extension of farm structures used for such purposes in an area not within the area shown on the flood hazard area map. This section shall not apply to underground mining where entrance is through an existing shaft or shafts or through a shaft or shafts not within the area shown on the flood hazard area map.

3. The powers by sections 64.010 to 64.160 given shall not be exercised so as to deprive the owner, lessee or tenant of any existing property of its use or maintenance for the purpose to which it is then lawfully devoted except that reasonable regulations may be adopted for the gradual elimination of nonconforming uses, nor shall anything in sections 64.010 to 64.160 interfere with such public utility services as may have been or may hereafter be specifically authorized or permitted by

a certificate of public convenience and necessity, or order issued by the public service commission, or by permit of the county commission.

4. For the purpose of any zoning regulation adopted under the provisions of sections 64.010 to 64.160, the classification of single-family dwelling or single-family residence shall include any home in which eight or fewer unrelated mentally or physically handicapped persons reside, and may include two additional persons acting as houseparents or guardians who need not be related to each other or to any of the mentally or physically handicapped persons. The classification of single-family dwelling or single-family residence shall also include any private residence licensed by the children's division **[**of family services**]** or department of mental health to provide foster care to one or more but less than seven children who are unrelated to either foster parent by blood, marriage or adoption. A zoning regulation may require that the exterior appearance of the home and property be in reasonable conformance with the general neighborhood standards and may also establish reasonable standards regarding the density of such individual homes in any specific single-family dwelling or single-family residence area. Should a single-family dwelling or single-family residence as defined in this subsection cease to operate for the purposes specified in this subsection, any other use of such dwelling or residence, other than that allowed by the zoning regulations, shall be approved by the county board of zoning adjustment. Nothing in this subsection shall be construed to relieve the children's division **[**of family services**]**, the department of

mental health or any other person, firm or corporation occupying or utilizing any single-family dwelling or single-family residence for the purposes specified in this subsection from compliance with any ordinance or regulation relating to occupancy permits except as to number and relationship of occupants or from compliance with any building or safety code applicable to actual use of such single-family dwelling or single-family residence.

5. Except in subsection 4 of this section, nothing contained in sections 64.010 to 64.160 shall affect the existence or validity of an ordinance which a county has adopted prior to March 4, 1991.

89.020. 1. For the purpose of promoting health, safety, morals or the general welfare of the community, the legislative body of all cities, towns, and villages is hereby empowered to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, the preservation of features of historical significance, and the location and use of buildings, structures and land for trade, industry, residence or other purposes.

2. For the purpose of any zoning law, ordinance or code, the classification single family dwelling or single family residence shall include any home in which eight or fewer unrelated mentally or physically handicapped persons reside, and may include two additional persons acting as houseparents or guardians who need not be related to each other or to any of the mentally or physically handicapped persons residing in the home. In the case of any such residential home for mentally or

physically handicapped persons, the local zoning authority may require that the exterior appearance of the home and property be in reasonable conformance with the general neighborhood standards. Further, the local zoning authority may establish reasonable standards regarding the density of such individual homes in any specific single family dwelling neighborhood.

3. No person or entity shall contract or enter into a contract which would restrict group homes or their location as **[**defined**]** <u>described</u> in this section from and after September 28, 1985.

4. Any county, city, town or village which has a population of at least five hundred and whose boundaries are partially contiguous with a portion of a lake with a shoreline of at least one hundred fifty miles shall have the authority to enforce its zoning laws, ordinances or codes for one hundred yards beyond the shoreline which is adjacent to its boundaries. In the event that a lake is not large enough to allow any county, city, town or village to enforce its zoning laws, ordinances or codes for one hundred yards beyond the shoreline without encroaching on the enforcement powers granted another county, city, town or village under this subsection, the counties, cities, towns and villages whose boundaries are partially contiguous to such lake shall enforce their zoning laws, ordinances or orders under this subsection pursuant to an agreement entered into by such counties, cities, towns and villages.

5. Should a single family dwelling or single family residence as defined in subsection 2 of this section cease to operate for the purpose as set forth in subsection 2 of this

section, any other use of such home, other than allowed by local zoning restrictions, must be approved by the local zoning authority.

6. For purposes of any zoning law, ordinance or code the classification of single family dwelling or single family residence shall include any private residence licensed by the children's division **[**of family services**]** or department of mental health to provide foster care to one or more but less than seven children who are unrelated to either foster parent by blood, marriage or adoption. Nothing in this subsection shall be construed to relieve the children's division **[**of family services**]**, the department of mental health or any other person, firm or corporation occupying or utilizing any single family dwelling or single family residence for the purposes specified in this subsection from compliance with any ordinance or regulation relating to occupancy permits except as to number and relationship of occupants or from compliance with any building or safety code applicable to actual use of such single family dwelling or single family residence.

7. Any city, town, or village that is granted zoning powers under this section and is located within a county that has adopted zoning regulations under chapter 64 may enact an ordinance to adopt by reference the zoning regulations of such county in lieu of adopting its own zoning regulations.

135.326. As used in sections 135.325 to 135.339, the following terms shall mean:

(1) "Business entity", person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business

in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state under the provisions of chapter 148, or an express company which pays an annual tax on its gross receipts in this state pursuant to chapter 153;

(2) "Handicap", a mental, physical, or emotional impairment that substantially limits one or more major life activities, whether the impairment is congenital or acquired by accident, injury or disease, and where the impairment is verified by medical findings;

(3) "Nonrecurring adoption expenses", reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal adoption of a special needs child and which are not incurred in violation of federal, state, or local law;

(4) "Special needs child", a child for whom it has been determined by the children's division **[**of family services**]**, or by a child-placing agency licensed by the state, or by a court of competent jurisdiction to be a child:

(a) That cannot or should not be returned to the home of his or her parents; and

(b) Who has a specific factor or condition such as ethnic background, age, membership in a minority or sibling group, medical condition, or handicap because of which it is reasonable

to conclude that such child cannot be easily placed with adoptive parents;

(5) "State tax liability", any liability incurred by a taxpayer under the provisions of chapter 143, chapter 147, chapter 148, and chapter 153, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265 and related provisions.

135.335. In the year of adoption and in any year thereafter in which the credit is carried forward pursuant to section 135.333, the credit shall be reduced by an amount equal to the state's cost of providing care, treatment, maintenance and services when:

(1) The special needs child is placed, with no intent to return to the adoptive home, in foster care or residential treatment licensed or operated by the children's division **[**of family services**]**, the division of youth services or the department of mental health; or

(2) A juvenile court temporarily or finally relieves the adoptive parents of custody of the special needs child.

135.339. The director of revenue, in consultation with the children's division **[**of family services**]**, shall prescribe such rules and regulations necessary to carry out the provisions of sections 135.325 to 135.339. No rule or portion of a rule promulgated under the authority of sections 135.325 to 135.339 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

143.782. As used in sections 143.782 to 143.788, unless the context clearly requires otherwise, the following terms shall

mean and include:

(1) "Court", the supreme court, court of appeals, or any circuit court of the state;

(2) "Debt", any sum due and legally owed to any state agency which has accrued through contract, subrogation, tort, or operation of law regardless of whether there is an outstanding judgment for that sum, court costs as defined in section 488.010, fines and fees owed, or any support obligation which is being enforced by the family support division **[**of family services**]** on behalf of a person who is receiving support enforcement services pursuant to section 454.425, or any claim for unpaid health care services which is being enforced by the department of health and senior services on behalf of a hospital or health care provider under section 143.790;

(3) "Debtor", any individual, sole proprietorship, partnership, corporation or other legal entity owing a debt;

(4) "Department", the department of revenue of the state of Missouri;

(5) "Refund", the Missouri income tax refund which the department determines to be due any taxpayer pursuant to the provisions of this chapter. The amount of a refund shall not include any senior citizens property tax credit provided by sections 135.010 to 135.035 unless such refund is being offset for a delinquency or debt relating to individual income tax or a property tax credit; and

(6) "State agency", any department, division, board, commission, office, or other agency of the state of Missouri, including public community college districts and housing

authorities as defined in section 99.020.

143.790. 1. Any hospital or health care provider who has provided health care services to an individual who was not covered by a health insurance policy or was not eligible to receive benefits under the state's medical assistance program of needy persons, Title XIX, P.L. 89-97, 1965 amendments to the federal Social Security Act, 42 U.S.C. Section 301, et seq., under chapter 208 and the health insurance for uninsured children under sections 208.631 to 208.657 at the time such health care services were administered, and such person has failed to pay for such services for a period greater than ninety days, may submit a claim to the director of the department of health and senior services for the unpaid health care services. The director of the department of health and senior services shall review such claim. If the claim appears meritorious on its face, the claim for the unpaid medical services shall constitute a debt of the department of health and senior services for purposes of sections 143.782 to 143.788, and the director may certify the debt to the department of revenue in order to set off the debtor's income tax refund. Once the debt has been certified, the director of the department of health and senior services shall submit the debt to the department of revenue under the setoff procedure established under section 143.783.

2. At the time of certification, the director of the department of health and senior services shall supply any information necessary to identify each debtor whose refund is sought to be set off pursuant to section 143.784 and certify the amount of the debt or debts owed by each such debtor.

3. If a debtor identified by the director of the department of health and senior services is determined by the department of revenue to be entitled to a refund, the department of revenue shall notify the department of health and senior services that a refund has been set off on behalf of the department of health and senior services for purposes of this section and shall certify the amount of such setoff, which shall not exceed the amount of the claimed debt certified. When the refund owed exceeds the claimed debt, the department shall send the excess amount to the debtor within a reasonable time after such excess is determined.

4. The department of revenue shall notify the debtor by certified mail the taxpayer whose refund is sought to be set off that such setoff will be made. The notice shall contain the provisions contained in subsection 3 of section **[**143.794**]** 143.784, including the opportunity for a hearing to contest the setoff provided therein, and shall otherwise substantially comply with the provisions of subsection 3 of section 143.784.

5. Once a debt has been set off and finally determined under the applicable provisions of sections 143.782 to 143.788, and the department of health and senior services has received the funds transferred from the department of revenue, the department of health and senior services shall settle with each hospital or health care provider for the amounts that the department of revenue set off for such party. At the time of each settlement, each hospital or health care provider shall be charged for administration expenses which shall not exceed twenty percent of the collected amount.

6. Lottery prize payouts made under section 313.321 shall

also be subject to the setoff procedures established in this section and any rules and regulations promulgated thereto.

7. The director of the department of revenue shall have priority to offset any delinquent tax owed to the state of Missouri. Any remaining refund shall be offset to pay a state agency debt or to meet a child support obligation that is enforced by the family support division **[**of family services**]** on behalf of a person who is receiving support enforcement services under section 454.425.

8. The director of the department of revenue and the director of the department of health and senior services shall promulgate rules and regulations necessary to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

143.1002. 1. In each tax year beginning on or after January 1, 1993, each individual or corporation entitled to a tax refund in an amount sufficient to make a designation pursuant to this section may designate that two dollars or any amount in excess of two dollars on a single return, and four dollars or any

amount in excess of four dollars on a combined return, of the refund due be credited to the elderly home-delivered meals trust fund, established in subsection 3 of this section. The contribution designation authorized by this section shall be clearly and unambiguously printed on each income tax return form provided by this state. If any individual or corporation which is not entitled to a tax refund in an amount sufficient to make a designation pursuant to this section wishes to make a contribution to the **[**division of aging**]** department of health and senior services elderly home-delivered meals trust fund, such individual or corporation may, by separate check, draft, or other negotiable instrument, send in with the payment of taxes, or may send in separately, that amount, clearly designated for the **[**division of aging**]** department of health and senior services elderly home-delivered meals trust fund, the individual or corporation wishes to contribute and the department of revenue shall forward such amount to the state treasurer for deposit to the fund as provided in subsection 2 of this section.

2. The director of revenue shall transfer at least monthly all contributions designated by individuals or corporations pursuant to this section, less an amount not to exceed five percent of such transferred contributions which is sufficient to cover the cost of collection and handling by the department of revenue, to the state treasurer for deposit in the state treasury to the credit of the elderly home-delivered meals trust fund. A contribution designated pursuant to this section shall only be transferred and deposited in the elderly home-delivered meals trust fund after all other claims against the refund from which

such contribution is to be made have been satisfied.

3. There is hereby established in the state treasury the "Elderly Home-Delivered Meals Trust Fund", which shall consist of all moneys deposited in the fund pursuant to subsection 2 of this section. The state treasurer shall administer the fund, and the moneys in the fund shall be used solely, upon appropriation, by the department of health and senior services for assistance in preparing and transporting meals to elderly persons in this state through a program designed to meet such purposes. These funds shall be transferred by the department to the area agencies on aging using the same formula as used for distribution of federal Older Americans Act moneys and moneys from the general revenue fund. Notwithstanding the provisions of section 33.080 to the contrary, moneys in the elderly home-delivered meals trust fund at the end of any biennium shall not be transferred to the credit of the general revenue fund.

160.545. 1. There is hereby established within the department of elementary and secondary education the "A+ Schools Program" to be administered by the commissioner of education. The program shall consist of grant awards made to public secondary schools that demonstrate a commitment to ensure that:

(1) All students be graduated from school;

(2) All students complete a selection of high school studies that is challenging and for which there are identified learning expectations; and

(3) All students proceed from high school graduation to a college or postsecondary vocational or technical school or high-wage job with work place skill development opportunities.

2. The state board of education shall promulgate rules and regulations for the approval of grants made under the program to schools that:

(1) Establish measurable districtwide performance standards for the goals of the program outlined in subsection 1 of this section; and

(2) Specify the knowledge, skills and competencies, in measurable terms, that students must demonstrate to successfully complete any individual course offered by the school, and any course of studies which will qualify a student for graduation from the school; and

(3) Do not offer a general track of courses that, upon completion, can lead to a high school diploma; and

(4) Require rigorous coursework with standards of competency in basic academic subjects for students pursuing vocational and technical education as prescribed by rule and regulation of the state board of education; and

(5) Have a partnership plan developed in cooperation and with the advice of local business persons, labor leaders, parents, and representatives of college and postsecondary vocational and technical school representatives, with the plan then approved by the local board of education. The plan shall specify a mechanism to receive information on an annual basis from those who developed the plan in addition to senior citizens, community leaders, and teachers to update the plan in order to best meet the goals of the program as provided in subsection 1 of this section. Further, the plan shall detail the procedures used in the school to identify students that may drop out of school

and the intervention services to be used to meet the needs of such students. The plan shall outline counseling and mentoring services provided to students who will enter the work force upon graduation from high school, address apprenticeship and intern programs, and shall contain procedures for the recruitment of volunteers from the community of the school to serve in schools receiving program grants.

3. A school district may participate in the program irrespective of its accreditation classification by the state board of education, provided it meets all other requirements.

4. By rule and regulation, the state board of education may determine a local school district variable fund match requirement in order for a school or schools in the district to receive a grant under the program. However, no school in any district shall receive a grant under the program unless the district designates a salaried employee to serve as the program coordinator, with the district assuming a minimum of one-half the cost of the salary and other benefits provided to the coordinator. Further, no school in any district shall receive a grant under the program unless the district makes available facilities and services for adult literacy training as specified by rule of the state board of education.

5. For any school that meets the requirements for the approval of the grants authorized by this section and specified in subsection 2 of this section for three successive school years, by August first following the third such school year, the commissioner of education shall present a plan to the superintendent of the school district in which such school is

located for the waiver of rules and regulations to promote flexibility in the operations of the school and to enhance and encourage efficiency in the delivery of instructional services in the school. The provisions of other law to the contrary notwithstanding, the plan presented to the superintendent shall provide a summary waiver, with no conditions, for the pupil testing requirements pursuant to section 160.257 in the school. Further, the provisions of other law to the contrary notwithstanding, the plan shall detail a means for the waiver of requirements otherwise imposed on the school related to the authority of the state board of education to classify school districts pursuant to subdivision (9) of section 161.092 and such other rules and regulations as determined by the commissioner of education, except such waivers shall be confined to the school and not other schools in the school district unless such other schools meet the requirements of this subsection. However, any waiver provided to any school as outlined in this subsection shall be void on June thirtieth of any school year in which the school fails to meet the requirements for the approval of the grants authorized by this section as specified in subsection 2 of this section.

6. For any school year, grants authorized by subsections 1 to 3 of this section shall be funded with the amount appropriated for this program, less those funds necessary to reimburse eligible students pursuant to subsection 7 of this section.

7. The **[**commissioner of**]** <u>department of higher</u> education shall, by rule **[**and regulation of the state board of education and with the advice of the coordinating board for higher

education**]**, establish a procedure for the reimbursement of the cost of tuition, books and fees to any public community college or vocational or technical school or within the limits established in subsection 9 of this section for any two-year private vocational or technical school for any student:

(1) Who has attended a public high school in the state for at least three years immediately prior to graduation that meets the requirements of subsection 2 of this section**[,]**; except that, students who are active duty military dependents, and students who are dependants of retired military who relocate to Missouri within one year of the date of the parent's retirement from active duty, who, in the school year immediately preceding graduation, meet all other requirements of this subsection and are attending a school that meets the requirements of subsection 2 of this section shall be exempt from the three-year attendance requirement of this subdivision; and

(2) Who has made a good faith effort to first secure all available federal sources of funding that could be applied to the reimbursement described in this subsection; and

(3) Who has earned a minimal grade average while in high school as determined by rule of the **[**state board of**]** department of higher education, and other requirements for the reimbursement authorized by this subsection as determined by rule and regulation of said board.

8. The commissioner of education shall develop a procedure for evaluating the effectiveness of the program described in this section. Such evaluation shall be conducted annually with the results of the evaluation provided to the governor, speaker of

the house, and president pro tempore of the senate.

9. For a two-year private vocational or technical school to obtain reimbursements under subsection 7 of this section, the following requirements shall be satisfied:

(1) Such two-year private vocational or technical school shall be a member of the North Central Association and be accredited by the Higher Learning Commission as of July 1, 2008, and maintain such accreditation;

(2) Such two-year private vocational or technical school shall be designated as a 501(c)(3) nonprofit organization under the Internal Revenue Code of 1986, as amended;

(3) No two-year private vocational or technical school shall receive tuition reimbursements in excess of the tuition rate charged by a public community college for course work offered by the private vocational or technical school within the service area of such college; and

(4) The reimbursements provided to any two-year private vocational or technical school shall not violate the provisions of Article IX, Section 8, or Article I, Section 7, of the Missouri Constitution or the first amendment of the United States Constitution.

160.700. 1. There is hereby established a pilot program for public middle school students using military training and motivation methods. This program shall be established jointly by the department of elementary and secondary education, the department of social services and the National Guard.

2. The program may include and emphasize appropriate role model examples, adventure training, codes of conduct and policies

on discipline as necessary to train students to become personally disciplined.

3. Students in the seventh or eighth grade may apply to attend the program upon recommendation of their school administration, or upon recommendation by local children's division **[**of family services**]** counselors.

4. This program shall be a four-week residential program at a National Guard facility during which time military training instructors from the National Guard shall have overall responsibility for the students. Academic instruction shall be provided by the local school system and needed training for the families of the students shall be provided by school counselors or the department of social services.

5. There is hereby established in the state treasury the "National Guard Pilot Instruction Program Fund". The pilot program of public instruction established pursuant to this section shall be funded by moneys from this fund. The fund may receive any grants, gifts, donations and appropriations for the purpose of establishing and operating this program.

161.418. 1. The department of **[**elementary and secondary**]** higher education shall develop criteria, with input from teacher educators in this state, to select which of the eligible applicants shall receive the scholarships made available under sections 161.415 to 161.424.

2. Students making application for the scholarships provided under sections 161.415 to 161.424 shall indicate their first, second, and third preference as to which of the colleges and universities which have provided the necessary matching funds

to participate in the scholarship program established under sections 161.415 to 161.424 they wish to attend. The department of [elementary and secondary] higher education, in conjunction with those colleges and universities which have provided the necessary matching funds, shall develop procedures for matching students eligible for the scholarships provided under sections 161.415 to 161.424 with such colleges and universities.

161.424. 1. Every student receiving scholarships under the provisions of sections 161.415 to 161.424 shall teach in an elementary or secondary public school in this state for a period of five years after receiving a degree or the scholarship shall be treated as a loan to the student and interest at the rate of nine and one-half percent per year shall be charged upon the unpaid balance of the amount received from the date the student ceases to teach until the amount received is paid back to the state. For each year that the student teaches up to five years, one-fifth of the amount which was received under sections 161.415 to 161.424 shall be applied against the total amount received and shall not be subject to the repayment requirement of this section.

2. The [state board of] department of higher education shall have the power to and shall defer interest and principal payments under certain circumstances, which shall include, but need not be limited to, the enrollment in a graduate program, service in any branch of the armed forces of the United States, or teaching in areas of critical need as defined by the state board of education.

[191.850.] 161.900. As used in sections [191.850 to

191.863**]** 161.900 to 161.945, the following terms mean:

(1) "Accessibility", compliance with nationally accepted accessibility and usability standards, such as those established in Section 255 of the Telecommunications Act of 1996 and Section 508 of the Workforce Investment Act of 1998;

(2) "Assistive technology device", any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain or improve functional capabilities of individuals with disabilities;

(3) "Assistive technology service", any service that directly assists an individual with a disability in the selection, acquisition or use of an assistive technology device. Such term includes:

(a) The evaluation of the needs of an individual with a disability, including a functional evaluation of the individual in the individual's customary environment;

(b) Purchasing, leasing or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities;

(c) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;

(d) Coordinating and using other therapies, interventions or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(e) Training or technical assistance for an individual with

disabilities, or, where appropriate, the family of an individual with disabilities; and

(f) Training or technical assistance for professionals, including individuals providing education and rehabilitation services, employers, or other individuals who provide services to, who employ, or who are otherwise substantially involved in the major life functions of individuals with disabilities;

(4) "Individual with disabilities", any individual who is considered to have a disability or handicap for the purposes of any federal or Missouri law;

(5) "Information technology", any electronic information equipment or interconnected system that is used in the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information, including audio, graphic and text;

(6) "State department or agency", each department, office, board, bureau, commission, or other unit of the executive, legislative or judicial branch of state government, including public four-year and two-year colleges and universities;

(7) "Undue burden", significant difficulty or expense, including, but not limited to, difficulty or expense associated with technical feasibility.

[191.853.**]** 161.905. 1. The "Missouri Assistive Technology Advisory Council" is hereby established, as created pursuant to the Missouri state grant under Title I of the Technology-Related Assistance for Individuals with Disabilities Act of 1988, P.L. 100-407.

2. The voting membership of the advisory council shall be composed of twenty-three members. **[**The members of the council that are serving on August 28, 1993, shall continue to serve in their normal capacities. The original twenty-one members shall determine by lot which seven are to have a one-year term, which seven are to have a two-year term, and which seven are to have a three-year term. Thereafter,**]** The successors to each of the original twenty-one members shall serve a three-year term and until his or her successor is appointed by the governor. The members appointed by the governor shall include twelve consumer representatives, the group consisting of individuals with disabilities, parents, spouses, or guardians of individuals with disabilities and shall include a variety of types of disabilities across the age span from all geographic areas of the state, and nine agency representatives, the group consisting of one representative of the division of vocational rehabilitation, one representative of the division of special education, one representative of the department of insurance, financial institutions and professional registration, one representative of rehabilitation services for the blind, one representative of the MO HealthNet division **[**of medical services**]**, one representative of the department of health and senior services, one representative of the department of mental health, and two representatives of other agencies or organizations responsible for the service delivery, policy implementation, and funding of assistive technology. In addition, one member who is a member of the house of representatives shall be appointed by the speaker of the house and one member who is a member of the senate shall be

appointed by the president pro tempore of the senate. The appointment of individuals representing state agencies shall be conditioned on their continued employment with their respective agencies.

3. A chairperson shall be elected by the council. The council shall meet at the call of the chairperson, but not less often than four times each year.

[191.855.**]** 161.910. 1. The council shall adopt written bylaws to govern its activities.

2. Members shall receive no additional compensation for their service to the council, but shall be reimbursed for reasonable and necessary expenses actually incurred in the performance of official duties.

[191.857.**]** 161.915. The Missouri assistive technology advisory council is assigned to the lead agency for the Technology-Related Assistance for Individuals with Disabilities Act as designated by the governor so long as funds are available under such act.

[191.858.**]** 161.920. At such time that federal funds are no longer provided pursuant to the Technology-Related Assistance for Individuals with Disabilities Act, as amended, the council shall be assigned to the **[**office of administration**]** department of elementary and secondary education as if by a type III transfer, as this term is defined in paragraph (c) of subdivision (1) of subsection 7 of section 1 of the omnibus state reorganization act of 1974. The council may not take any official action after the assignment to the **[**office of administration**]** department of elementary and secondary education unless or until funds are

specifically appropriated by line item to fund the actions of the council and to provide the staff and expenses necessary to carry out the official duties and responsibilities of the council.

[191.859.**]** 161.925. The council shall advocate for assistive technology policies, regulations and programs, and shall establish a consumer-responsive, comprehensive assistive technology service delivery system. The council shall:

(1) Promote awareness of the needs of individuals with disabilities for assistive technology devices and services and the efficacy of providing such devices and services to allow persons with disabilities to be productive and independent;

(2) Gain an understanding of current policies, practices, and procedures that facilitate or impede the availability or provision of assistive technology and recommend methods to streamline such policies;

(3) Research and study data from the major public and private providers of assistive technology regarding numbers and types of devices and services delivered;

(4) Establish interagency coordination mechanisms among state agencies and public and private entities that provide assistive technology devices and services in an effort to eliminate gaps and reduce duplication of such services to individuals with disabilities;

(5) Foster the capacity of public and private entities to provide assistive technology devices and services so that individuals with disabilities of all ages will, to the extent appropriate, be able to secure and maintain possession of assistive technology as needed to function independently and

productively;

(6) Recommend and implement specific methods and programs to increase availability of and funding for assistive technology devices and assistive technology services for individuals with disabilities;

(7) Employ staff necessary to implement assistive technology services and programs assigned to the council, with all employees exempt from the state merit system under chapter 36;

(8) Enter into grants or contracts with public or private agencies, schools, or qualified individuals or organizations to deliver federally required or otherwise necessary assistive technology programs and services, including but not limited to assistive device demonstration programs, device recycling programs, device loan programs, financial loan programs, and assistive technology assessments, installation, and usage training for individuals with disabilities, with or without utilizing the procurement procedures of the office of administration;

(9) Administer the assistive technology trust fund created in section **[**191.861**]** 161.930, including the formation of a not-for-profit corporation that qualifies as a Section 501(c)(3) organization under the Internal Revenue Code of 1986, as amended;

(10) Accept, administer, and disburse federal moneys as the lead agency for the federal Assistive Technology Act of 2004, P.L. 108-364, and any amendments or successors thereto, as well as moneys from the assistive technology trust fund created in section **[**191.861**]** 161.930, and any other moneys appropriated,

granted, or given for the purpose of implementing assistive technology programs and services; and

(11) Report annually by January first to the governor and the general assembly on council activities and the results of its studies, programs, services, and recommendations to increase access to assistive technology.

[191.861.**]** 161.930. 1. There is hereby created in the state treasury the "Assistive Technology Trust Fund" which shall be a public/private partnership fund administered by the advisory assistive technology council. The fund shall consist of gifts, donations, grants, and bequests from individuals, private organizations, foundations, or other sources granted or given for the specific purpose of assistive technology, and moneys transferred or paid to the council in return for goods and services provided by the council.

2. Upon appropriation, moneys in the fund shall be used to establish and maintain assistive technology programs and services provided by the council under section **[**191.859**]** 161.925 and shall not be used to supplant any existing program or service.

3. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

4. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

[191.863.**]** 161.935. 1. The council shall work in conjunction with the office of information technology services

division to assure state compliance with the provisions of Section 508 of the Workforce Investment Act of 1998 regarding accessibility of information technology for individuals with disabilities.

2. When developing, procuring, maintaining or using information technology, or when administering contracts or grants that include the procurement, development, or upgrading of information technology, each state department or agency shall ensure, unless an undue burden would be imposed on the department or agency, that the information technology allows employees, program participants and members of the general public access to and use of information and data that is comparable to the access by individuals without disabilities.

3. To assure accessibility, the council and the office of information technology services division shall:

(1) Adopt accessibility standards to be used by each state department or agency in the procurement of information technology, and in the development and implementation of custom-designed information technology systems, websites and other emerging information technology systems;

(2) Establish and implement a review procedure to be used to evaluate the accessibility of custom-designed information technology systems proposed by a state department or agency prior to expenditure of state funds;

(3) Review and evaluate accessibility of information technology commonly purchased by state departments and agencies, and provide accessibility reports on such products to those responsible for purchasing decisions;

(4) Provide training and technical assistance for state departments and agencies to assure procurement of information technology that meets adopted accessibility standards;

(5) Involve individuals with disabilities in accessibility reviews of information technology and in the delivery of training and technical assistance;

(6) Establish complaint procedures, consistent with Section 508 of the Workforce Development Act of 1998 to be used by an individual with a disability who alleges that a state department or agency fails to comply with the provisions of this section.

[191.865.**]** 161.940. 1. The Missouri assistive technology advisory council, established in section **[**191.853**]** 161.905, shall establish an assistive technology loan program. The loan program shall be funded from the assistive technology loan revolving fund established pursuant to section **[**191.867**]** 161.945. The fund shall receive any appropriation and grant moneys received pursuant to subsection 2 of this section to provide loans for the purchase of assistive technology devices and services, as defined in section **[**191.850**]** 161.900.

2. The loan program shall provide loans for the first fiscal year following appropriation. Any matching grant moneys received by the state pursuant to Title III of the federal Assistive Technology Act of 1998 or through any other applicable sources shall be used to fund the loan program. The state treasurer shall provide the assistive technology advisory council with information on the amount of moneys in the assistive technology loan revolving fund at the beginning of each fiscal year. The council shall quarterly expend such moneys in four

equal shares to ensure that the loan program will provide loans throughout the entire fiscal year. Any repayments or interest earned during a fiscal year shall not be used for loans in the current fiscal year, but shall be carried over for use in the next fiscal year.

3. The interest rates for loans shall be lower than comparable commercial lending rates and shall be established by the council based on the borrower's ability to pay. Loans may be made with no interest. Loan repayment periods shall not exceed ten years.

4. The council shall:

(1) Promulgate rules relating to borrower eligibility, interest rates, repayment terms and other matters necessary to implement the purpose of this section, including limits on the number and amounts of loans to assure the continued solvency of the fund; and

(2) File annual reports with the governor and general assembly which shall include an accounting of the loans and repayments to the fund during the preceding fiscal year.

5. The council may enter into contracts as necessary to carry out the purposes of this section, including but not limited to contracts with disability organizations and lending institutions.

6. By no later than January 1, 2001, the council shall submit a report to the general assembly regarding any rules proposed or promulgated for the implementation of this program.

7. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has

been promulgated pursuant to chapter 536.

[191.867.**]** 161.945. 1. In order to allow Missourians with disabilities to take advantage of Title III of the federal Assistive Technology Act of 1998, there is hereby created in the state treasury the "Assistive Technology Loan Revolving Fund" which shall be administered by the Missouri assistive technology advisory council and the state treasurer.

2. Moneys in the fund shall, upon appropriation, be used to establish and maintain the assistive technology loan program established in section **[**191.865**]** 161.940.

3. The fund shall consist of any moneys appropriated to the fund, repayments of principal and interest by qualified borrowers, and interest earned on the moneys in the fund.

4. The fund may accept federal, state and other public funds, public or private grants, contributions and loans to the fund with the approval of the Missouri assistive technology advisory council.

5. Notwithstanding the provisions of section 33.080 to the contrary, moneys in the fund shall not revert to the general revenue fund at the end of the biennium.

167.034. 1. In any city not within a county where a child under the age of seventeen required to attend school under section 167.031 accumulates fifteen or more absences during any one school year, the child's school district shall report such absences to the **[**division of family services,**]** children's division**[**,**]** within ten business days of the fifteenth day of absence. Such notification, which shall be in written form and retained in the student's school records, shall include:

(1) The student's full name and parents' or guardians' full names;

(2) The addresses and phone numbers of the student and parents or guardians;

(3) The student's date of birth and age;

(4) The student's current school and grade level;

(5) The student's current grades for all classes in which the student is enrolled; and

(6) The total number of days missed and specific days missed from school.

2. Upon receipt of a report of the absences of a child under this section, the children's division shall notify the child's parent or guardian that the child has accumulated fifteen or more absences and such report may be subject to the educational neglect provisions under section 210.145. The notification required under this section is required regardless of whether a student's parent or guardian contacted the school and approved of the absences.

167.122. 1. Notwithstanding any provisions of chapter 211 or chapter 610 to the contrary the juvenile officer or an employee of the children's division **[**of family services**]** shall notify the school district that a child under judicial custody pursuant to subsection 3 of section 211.031 is being enrolled in that district or that a child already enrolled has been taken into judicial custody.

2. The notification shall be given to the superintendent of schools or a designee, either orally or in writing, at the time of enrollment or no later than five days following the court

taking custody of the child under subsection 3 of section 211.031. If the report is made orally, written notice shall follow in a timely manner. The notification shall describe any conduct that involved physical force with the intent to do serious bodily harm to another person but shall not include the name of any victim other than the child.

3. The superintendent or a designee is authorized to share this information with teachers and other school district employees with a need to know while acting within the scope of their assigned duties pursuant to subsection 2 of section 160.261. Any information received by school district officials pursuant to this section shall be received in confidence and used for the limited purposes of assuring that good order and discipline is maintained in the school, or for intervention and counseling purposes for the benefit of the child. The information shall not be part of the child's permanent record. The information shall not be used as the sole basis for denying educational services to a pupil.

167.123. 1. Notwithstanding any other provisions of this chapter, or chapter 610, to the contrary, the juvenile officer or an employee of the children's division **[**of family services**]** shall notify the superintendent of the school district in which the child is enrolled, or the superintendent's designee, upon request by the superintendent or designee regarding such child, when a case is active regarding the child.

2. The notification shall be made orally or in writing, in a timely manner, no later than five days following the request by the superintendent or designee. If the report is made orally,

written notice shall follow in a timely manner. The notification shall include a complete description of the case involving the pupil, the conduct the child is alleged to have committed, if any, and the dates the conduct occurred but shall not include the name of any victim other than the child.

3. The superintendent or the designee of the superintendent shall report such information to teachers and other school district employees with a need to know while acting within the scope of their assigned duties. Any information received by school district officials pursuant to this section shall be received in confidence and used for the limited purposes of assuring that good order and discipline is maintained in the school, or for intervention and counseling purposes for the benefit of the child. The information shall not be part of the child's permanent record. The information shall not be used as the sole basis for not providing educational services to a pupil.

169.520. Any funds created by sections 169.410 to 169.540 while in the charge and custody of the board of trustees of such retirement system shall not be subject to execution, garnishment, attachment or any other process whatsoever and shall be unassignable except as in sections 169.410 to 169.540 specifically provided or in the case of a proper order of child support issued through the <u>family support</u> division **[**of child support enforcement**]**.

172.875. 1. The Missouri kidney program in the University of Missouri, a statewide program that provides treatment for renal disease, shall administer a separate program to provide assistance for immunosuppressive pharmaceuticals and other

services for other organ transplant patients. The Missouri kidney program shall establish guidelines and eligibility requirements and procedures, similar to those established to serve eligible end-stage renal disease patients, for other organ transplant patients to receive assistance pursuant to this section.

2. Every person who receives assistance as a new participant in the Missouri kidney program pursuant to this section shall pay the administrative costs associated with such person's participation in the program.

3. The Missouri kidney program shall coordinate efforts with the divisions of family **[**services and medical services**]** <u>support and MO HealthNet</u> in the department of social services to provide the most efficient and cost-effective assistance to organ transplant patients.

4. From funds appropriated to provide assistance pursuant to this section, the priority shall be to provide pharmaceutical services. If other funds are available through the transplant program, other services for the treatment of organ transplant patients may be provided.

181.110. 1. For the purpose of providing the services described in this section, each agency shall have the following responsibilities and powers:

(1) To submit to the state library electronically each publication created by the agency in a manner consistent with the state's enterprise architecture;

(2) To determine the format used to publish;

(3) For those publications which the agency determines

shall be printed and published in paper, to supply the number of copies for participating libraries as determined by the secretary of state;

(4) To assign a designee as a contact for the state publications access program and forward this information to the secretary of state annually.

2. For the purpose of providing the services described in this section, the secretary of state shall have the following responsibilities:

(1) **[**The secretary,**]** Through the state library, **[**shall**]** to provide a secure electronic repository of state publications. Access to the state publications in the repository shall be provided through multiple methods of access, including the statewide online library catalog and a publicly accessible electronic network;

(2) **[**The secretary shall**]** To create, in administrative rule, the criteria for selection of participating libraries and the responsibilities incumbent upon those libraries in serving the citizens of Missouri;

(3) **[**The secretary shall**]** To set by administrative rule the electronic formats acceptable for submission of publications to the electronic repository;

(4) **[**The secretary**]** May issue and promulgate rules to enforce, implement and effectuate the powers and duties established in sections 181.100 to 181.130.

3. For the purpose of providing the services described in this section, the state library shall have the following responsibilities, all to be performed in a manner consistent with

e-government:

(1) [The state library shall] To administer the electronic repository of state publications for access by the citizens of Missouri, and receive and distribute publications in other formats, which will be housed and made available to the public by the participating libraries;

(2) [The state library shall] To ensure the organization and classification of state publications regardless of formats and the distribution of materials in additional formats to participating libraries;

(3) [The state library shall] To publish regularly a list of all publications of the agencies, regardless of format.

4. For the purpose of providing the services described in this section, the participating libraries shall have the following responsibilities:

(1) To ensure citizens who come to the library will be able to access publications electronically;

(2) To maintain paper copies of those state publications that agencies publish in paper that are designated by the secretary of state to be included in the Missouri state publications access program;

(3) To maintain a collection of older state publications published by the agencies in paper and designated by the secretary of state to be included in the Missouri state publications access program;

(4) To provide training for staff of other libraries to assist the public in the use of state publications;

(5) To assist agencies in the distribution of paper copies

of state publications to the public.

5. All responsibilities and powers set out in this section shall be carried out consistent with the provisions of section **[**191.863**]** 161.935.

6. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this chapter shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

186.019. 1. Prior to April first of each year, starting in 1992, the information described in subdivisions (1), (2), (3) and (4) of this subsection shall be delivered in report form to the Missouri women's council, the governor's office, the secretary of the senate, and the chief clerk of the house of representatives. The information shall apply only to activities which occurred during the previous calendar year. Reports shall be required from the following:

(1) The department of labor and industrial relations, and the division of **[**job development and training**]** workforce development of the department of economic development, who shall assemble all available data and report on all business start-ups and business failures which are fifty-one percent or more owned

by women. The reports shall distinguish, as best as possible, those businesses which are sole proprietorships, partnerships, or corporations;

(2) The department of economic development, who shall assemble all available data and report on financial assistance or other incentives given to all businesses which are fifty-one percent or more owned by women. The report shall contain information relating to assistance or incentives awarded for the retention of existing businesses, the expansion of existing businesses, or the start-up of new businesses;

(3) The department of revenue, who shall assemble all available data and report on the number, gross receipts and net income of all businesses which are fifty-one percent or more owned by women. The reports shall distinguish those businesses which are sole proprietorships, partnerships or corporations;

(4) The division of purchasing of the office of administration, who shall assemble all available data and report on businesses which are fifty-one percent or more owned by women which are recipients of contracts awarded by the state of Missouri.

2. Prior to December first of each year, starting in 1990, the information described in subdivisions (1) and (2) of this subsection shall be delivered in report form to the Missouri women's council, the governor's office, the secretary of the senate, and the chief clerk of the house of representatives. The information shall apply only to activities which occurred during the previous school year. Reports shall be required from the following:

(1) The department of elementary and secondary education shall assemble all available data from the Vocational and Education Data System (VEDS) on class enrollments by Instruction Program Codes (CIP); by secondary and postsecondary schools; and, secondary, postsecondary, and adult level classes; and by gender. This data shall also be reported by classes of traditional and nontraditional occupational areas.

(2) The coordinating board for higher education shall assemble all available data and report on higher education degrees awarded by academic discipline; type of degree; type of school; and gender. All available data shall also be reported on salaries received upon completion of degree program and subsequent hire, as well as any data available on follow-up salaries.

189.095. 1. Hospitals eligible for payments pursuant to the provisions of sections 189.015 to 189.050, which also qualify as hospitals serving a disproportionate number of low income patients pursuant to subdivision (1) of section 208.152 and regulations issued thereunder, shall, because of such qualification, become ineligible to receive payments under sections 189.015 to 189.050 during the period of such qualification.

2. Moneys which, but for the provisions of this section, would have been paid to hospitals made ineligible by the provisions of this section shall be paid over to the MO HealthNet division **[**of medical services**]** of the department of social services and used, upon appropriation, by the MO HealthNet division **[**of medical services**]** for payments to hospitals.

3. Notwithstanding the provisions of this section, any hospital determined to be ineligible for payments pursuant to the provisions of sections 189.015 to 189.050, solely because of its qualification pursuant to subdivision (1) of section 208.152, may elect to reject such qualification by July fifteenth of any year and accept its eligibility pursuant to sections 189.015 to 189.050.

4. The MO HealthNet division **[**of medical services**]** of the department of social services may issue rules and regulations necessary to carry out the provisions of this section.

191.737. 1. Notwithstanding the physician-patient privilege, any physician or health care provider may refer to the department of health and senior services families in which children may have been exposed to a controlled substance listed in section 195.017, schedules I, II and III, or alcohol as evidenced by:

(1) Medical documentation of signs and symptoms consistent with controlled substances or alcohol exposure in the child at birth; or

(2) Results of a confirmed toxicology test for controlled substances performed at birth on the mother or the child; and

(3) A written assessment made or approved by a physician, health care provider, or by the children's division **[**of family services**]** which documents the child as being at risk of abuse or neglect.

2. Nothing in this section shall preclude a physician or other mandated reporter from reporting abuse or neglect of a child as required pursuant to the provisions of section 210.115.

3. Upon notification pursuant to subsection 1 of this section, the department of health and senior services shall offer service coordination services to the family. The department of health and senior services shall coordinate social services, health care, mental health services, and needed education and rehabilitation services. Service coordination services shall be initiated within seventy-two hours of notification. The department of health and senior services shall notify the department of social services and the department of mental health within seventy-two hours of initial notification.

4. Any physician or health care provider complying with the provisions of this section, in good faith, shall have immunity from any civil liability that might otherwise result by reason of such actions.

5. Referral and associated documentation provided for in this section shall be confidential and shall not be used in any criminal prosecution.

192.601. The department of health and senior services shall establish a toll-free telephone number for the use of parents to access information about health care providers and practitioners who provide health care services under the maternal and child health block grant and the medical assistance program and about other relevant health care providers, as required by 42 U.S.C. 705(a)(5)(E). Unless otherwise prohibited by federal law or regulation, the cost of establishing and maintaining the cost of the toll-free telephone number, including the cost of personnel to operate or support it, shall be appropriated from the federal maternal and child health block grant. The MO HealthNet division

[of medical services] of the department of social services shall provide the department of health and senior services with information it has otherwise compiled concerning health care providers who participate in the medical assistance program. The department of health and senior services shall coordinate the operation of the toll-free telephone numbers operated by the department so as to minimize duplication of administrative expense.

[660.050.] 192.1000. 1. The "Division of Aging" is hereby transferred from the department of social services to the department of health and senior services by a type I transfer as defined in the Omnibus State Reorganization Act of 1974. The [division] department shall aid and assist the elderly and low-income [handicapped] disabled adults living in the state of Missouri to secure and maintain maximum economic and personal independence and dignity. The [division] department shall regulate adult long-term care facilities pursuant to the laws of this state and rules and regulations of federal and state agencies, to safeguard the lives and rights of residents in these facilities.

2. In addition to its duties and responsibilities enumerated pursuant to other provisions of law, the [division] department shall:

(1) Serve as advocate for the elderly by promoting a comprehensive, coordinated service program through administration of Older Americans Act (OAA) programs (Title III) P.L. 89-73, (42 U.S.C. 3001, et seq.), as amended;

(2) Assure that an information and referral system is

developed and operated for the elderly, including information on [the Missouri care options program] home and community based services;

(3) Provide technical assistance, planning and training to local area agencies on aging;

(4) Contract with the federal government to conduct surveys of long-term care facilities certified for participation in the Title XVIII program;

(5) [Serve as liaison between the department of health and senior services and the Federal Health Standards and Quality Bureau, as well as the Medicare and Medicaid portions of the United States Department of Health and Human Services;

(6)] Conduct medical review (inspections of care) activities such as utilization reviews, independent professional reviews, and periodic medical reviews to determine medical and social needs for the purpose of eligibility for Title XIX, and for level of care determination;

[(7)] (6) Certify long-term care facilities for participation in the Title XIX program;

[(8)] (7) Conduct a survey and review of compliance with P.L. 96-566 Sec. 505(d) for Supplemental Security Income recipients in long-term care facilities and serve as the liaison between the Social Security Administration and the department of health and senior services concerning Supplemental Security Income beneficiaries;

[(9)] (8) Review plans of proposed long-term care facilities before they are constructed to determine if they meet applicable state and federal construction standards;

[(10)**]** (9) Provide consultation to long-term care facilities in all areas governed by state and federal regulations;

[(11)**]** (10) Serve as the central state agency with primary responsibility for the planning, coordination, development, and evaluation of policy, programs, and services for elderly persons in Missouri consistent with the provisions of subsection 1 of this section and serve as the designated state unit on aging, as defined in the Older Americans Act of 1965;

[(12) With the advice of the governor's advisory council on aging,**]** (11) Develop long-range state plans for programs, services, and activities for elderly and handicapped persons. State plans should be revised annually and should be based on area agency on aging plans, statewide priorities, and state and federal requirements;

[(13)**]** (12) Receive and disburse all federal and state funds allocated to the division and solicit, accept, and administer grants, including federal grants, or gifts made to the division or to the state for the benefit of elderly persons in this state;

[(14)**]** (13) Serve, within government and in the state at large, as an advocate for elderly persons by holding hearings and conducting studies or investigations concerning matters affecting the health, safety, and welfare of elderly persons and by assisting elderly persons to assure their rights to apply for and receive services and to be given fair hearings when such services are denied;

[(15) Provide information and technical assistance to the

governor's advisory council on aging and keep the council continually informed of the activities of the division;

(16) After consultation with the governor's advisory council on aging, make recommendations for legislative action to the governor and to the general assembly;

(17)**]** (14) Conduct research and other appropriate activities to determine the needs of elderly persons in this state, including, but not limited to, their needs for social and health services, and to determine what existing services and facilities, private and public, are available to elderly persons to meet those needs;

[(18)**]** (15) Maintain and serve as a clearinghouse for up-to-date information and technical assistance related to the needs and interests of elderly persons and persons with Alzheimer's disease or related dementias, including information on the **[**Missouri care options**]** home and community based services program, dementia-specific training materials and dementia-specific trainers. Such dementia-specific information and technical assistance shall be maintained and provided in consultation with agencies, organizations and/or institutions of higher learning with expertise in dementia care;

[(19)**]** (16) Provide area agencies on aging with assistance in applying for federal, state, and private grants and identifying new funding sources;

[(20)**]** (17) Determine area agencies on aging annual allocations for Title XX and Title III of the Older Americans Act expenditures;

[(21)**]** (18) Provide transportation services, home-delivered

and congregate meals, in-home services, counseling and other services to the elderly and low-income handicapped adults as designated in the Social Services Block Grant Report, through contract with other agencies, and shall monitor such agencies to ensure that services contracted for are delivered and meet standards of quality set by the division;

[(22)**]** (19) Monitor the process pursuant to the federal Patient Self-determination Act, 42 U.S.C. 1396a (w), in long-term care facilities by which information is provided to patients concerning durable powers of attorney and living wills.

3. The **[**division director, subject to the supervision of the director of the department of health and senior services, shall be the chief administrative officer of the division and shall exercise for the division the powers and duties of an appointing authority pursuant to chapter 36 to employ such administrative, technical and other personnel as may be necessary for the performance of the duties and responsibilities of the division.

4. The division**]** department may withdraw designation of an area agency on aging only when it can be shown the federal or state laws or rules have not been complied with, state or federal funds are not being expended for the purposes for which they were intended, or the elderly are not receiving appropriate services within available resources, and after consultation with the director of the area agency on aging and the area agency board. Withdrawal of any particular program of services may be appealed to the director of the department of health and senior services and the governor. In the event that the division withdraws the

area agency on aging designation in accordance with the Older Americans Act, the **[**division**]** department shall administer the services to clients previously performed by the area agency on aging until a new area agency on aging is designated.

[5.**]** 4. Any person hired by the department of health and senior services after August 13, 1988, to conduct or supervise inspections, surveys or investigations pursuant to chapter 198 shall complete at least one hundred hours of basic orientation regarding the inspection process and applicable rules and statutes during the first six months of employment. Any such person shall annually, on the anniversary date of employment, present to the department evidence of having completed at least twenty hours of continuing education in at least two of the following categories: communication techniques, skills development, resident care, or policy update. The department of health and senior services shall by rule describe the curriculum and structure of such continuing education.

[6.**]** 5. The **[**division**]** department may issue and promulgate rules to enforce, implement and effectuate the powers and duties established in this section and sections 198.070 and 198.090 and sections **[**660.250 and 660.300 to 660.320**]** 192.1080 and 192.1102 to 192.1112. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay

the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

[7. Missouri care options**]** 6. Home and community based services is a program, operated and coordinated by the **[**division of aging**]** department of health and senior services, which informs individuals of the variety of care options available to them when they may need long-term care.

[8.**]** 7. The division shall**[**, by January 1, 2002, establish**]** maintain minimum dementia-specific training requirements for employees involved in the delivery of care to persons with Alzheimer's disease or related dementias who are employed by skilled nursing facilities, intermediate care facilities, residential care facilities, agencies providing in-home care services authorized by the division of aging, adult day-care programs, independent contractors providing direct care to persons with Alzheimer's disease or related dementias and the division of aging. Such training shall be incorporated into new employee orientation and ongoing in-service curricula for all employees involved in the care of persons with dementia. The department of health and senior services shall**[**, by January 1, 2002, establish**]** maintain minimum dementia-specific training requirements for employees involved in the delivery of care to persons with Alzheimer's disease or related dementias who are employed by home health and hospice agencies licensed by chapter 197. Such training shall be incorporated into the home health and hospice agency's new employee orientation and ongoing

in-service curricula for all employees involved in the care of persons with dementia. The dementia training need not require additional hours of orientation or ongoing in-service. Training shall include at a minimum, the following:

(1) For employees providing direct care to persons with Alzheimer's disease or related dementias, the training shall include an overview of Alzheimer's disease and related dementias, communicating with persons with dementia, behavior management, promoting independence in activities of daily living, and understanding and dealing with family issues;

(2) For other employees who do not provide direct care for, but may have daily contact with, persons with Alzheimer's disease or related dementias, the training shall include an overview of dementias and communicating with persons with dementia.

As used in this subsection, the term "employee" includes persons hired as independent contractors. The training requirements of this subsection shall not be construed as superceding any other laws or rules regarding dementia-specific training.

[660.053.**]** 192.1002. As used in **[**section 199.025 and sections 660.050 to 660.057 and 660.400 to 660.420**]** sections 192.1000 to 192.1008 and 192.1040 to 192.1058, the following terms mean:

(1) "Area agency on aging", the agency designated by the **[**division**]** department in a planning and service area to develop and administer a plan and administer available funds for a comprehensive and coordinated system of services for the elderly and persons with disabilities who require similar services;

(2) "Area agency board", the local policy-making board which directs the actions of the area agency on aging under state and federal laws and regulations;

(3) "Department", the department of health and senior services;

(4) "Director", the director of the [division of aging of the Missouri department of social] department of health and senior services;

[(4) "Division", the division of aging of the Missouri department of social services;]

(5) "Elderly" or "elderly persons", persons who are sixty years of age or older;

(6) "Disability", a mental or physical impairment that substantially limits one or more major life activities, whether the impairment is congenital or acquired by accident, injury or disease, where such impairment is verified by medical findings;

(7) "Local government", a political subdivision of the state whose authority is general or a combination of units of general purpose local governments;

(8) "Major life activities", functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working;

(9) "Medicaid", medical assistance provided under section 208.151, et seq., in compliance with Title XIX, Public Law 89-97, 1965 amendments to the Social Security Act (42 U.S.C. 301 et seq.), as amended;

(10) "Protective services", a service provided by the [Missouri division of aging] department of health and senior

services in response to the need for protection from harm or neglect to eligible adults under sections [660.250 to 660.295] 192.1080 to 192.1100;

(11) "Registered caregiver", a person who provides primary long-term care for an elderly person and wishes to receive information, services or support from the shared care program;

(12) "Shared care", a program administered by the [division of aging] department of health and senior services in which Missouri families who provide primary long-term care for an elderly person and register as a shared care member with the [division of aging] department shall receive access to certain supportive services and may receive a state tax credit;

(13) "Shared care community project", a project in a community that offers to help support shared care participation through development of programs;

(14) "Shared care member", a registered caregiver or shared care provider who registers with the [division of aging] department in order to participate in the shared care program;

(15) "Shared care provider", any state authorized long-term care provider in the state, including, but not limited to, in-home, home health, hospice, adult day care, residential care facility or assisted living facility, or nursing home, who voluntarily registers with the [division of aging] department to be available as a resource for the shared care program;

(16) "Shared care tax credit", a tax credit to registered caregivers who meet the requirements of section [660.055] 192.1006.

[660.054.] 192.1004. 1. The [division of aging of the

department of social**]** department of health and senior services shall establish a program to help families who provide the primary long-term care for an elderly person. This program shall be known as "shared care" and has the following goals:

(1) To provide services and support for families caring for an elderly person;

(2) To increase awareness of the variety of privately funded services which may be available to those persons caring for an elderly person;

(3) To increase awareness of the variety of government services which may be available to those caring for an elderly person;

(4) Recognition on an annual basis by the governor for those families participating in the shared care program and community project groups participating in the shared care program;

(5) To provide a tax credit to members who meet the qualifications pursuant to section **[**660.055**]** 192.1006; and

(6) To promote community involvement by:

(a) Providing local communities information about the shared care program and to encourage the establishment of support groups where none are available and to support existing support groups, and other programs for shared care members and providers to share ideas, information and resources on caring for an elderly person; and

(b) Encouraging local home care, adult day care or other long-term care providers, who have regularly scheduled training sessions for paid caregivers, to voluntarily invite shared care

members to participate in education and training sessions at no cost to the registered caregivers. Such providers shall not be held liable in any civil or criminal action related to or arising out of the participation or training of shared care members in such sessions.

2. To further the goals of the shared care program, the director shall:

(1) Promulgate specific rules and procedures for the shared care program. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in sections **[**660.050 to 660.057**]** 192.1000 to 192.1008 shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void;

(2) Maintain a registry of names and addresses of shared care members and shared care providers;

(3) Compile a list, updated annually, of public and private resources, services and programs which may be available to assist

and support the registered caregiver with caring for the elderly. Such list shall be given to shared care members along with information on shared care providers in their community. Private organizations and providers shall be responsible for providing information to the division of aging for inclusion on the list. The **[**division of aging**]** department shall establish reporting procedures for private organizations and publicly disseminate the division's guidelines statewide;

(4) Compile and distribute to shared care members information about the services and benefits of the shared care program and a bibliography of resources and materials with information helpful to such members. The bibliography will give members an overview of available information and is not required to be comprehensive;

(5) Encourage shared care providers, consumer groups, churches and other philanthropic organizations to help local communities develop local support systems where none are available and to support existing support groups for persons caring for elderly persons and make **[**division**]** department staff available, if possible;

(6) In conjunction with the director of revenue, develop a physician certification for shared care tax credit form to be given to registered caregivers upon request. The form shall require, but is not limited to:

(a) Identifying information about the registered caregiver for tax purposes, and the signature of the registered caregiver certifying that he or she qualifies for the shared care tax credit as provided in section **[**660.055**]** 192.1006;

(b) Identifying information about the elderly person receiving care for verification purposes;

(c) Identifying information about and the signature of the physician licensed pursuant to the provisions of chapter 334 for verification and certification purposes;

(d) A description by such physician of the physical or mental condition of the elderly person that makes them incapable of living alone and lists the care, assistance with daily living and oversight needed at home in order to prevent placement in a facility licensed pursuant to chapter 198; and

(e) A complete explanation of the shared care tax credit and its guidelines and directions on completion of the form and how to file for the shared care tax credit with the department of revenue; and

(7) In conjunction with the director of revenue, develop a **[**division of aging**]** department certification for shared care tax credit form to be given at the request of the registered caregivers when a **[**division of aging**]** department assessment has been completed for other purposes. The form shall require, but is not limited to:

(a) Identifying information about the registered caregiver for tax purposes, and the signature of the registered caregiver certifying that he or she qualifies for the shared care tax credit as provided in section **[**660.055**]** 192.1006;

(b) Identifying information about the elderly person receiving care for verification purposes;

(c) Identifying information about and the signature of the **[**division of aging**]** department staff for verification and

certification purposes;

(d) A description by the [division of aging] department staff of the physical or mental condition of the elderly person that makes them incapable of living alone and lists the care, assistance with daily living and oversight needed at home in order to prevent placement in a facility licensed pursuant to chapter 198; and

(e) A complete explanation of the shared care tax credit and its guidelines and directions for completing the form and how to file for the shared care tax credit with the department of revenue.

3. Funds appropriated for the shared care program shall be appropriated to and administered by the department of [social] health and senior services.

[660.055.] 192.1006. 1. Any registered caregiver who meets the requirements of this section shall be eligible for a shared care tax credit in an amount not to exceed five hundred dollars to defray the cost of caring for an elderly person. In order to be eligible for a shared care tax credit, a registered caregiver shall:

(1) Care for an elderly person, age sixty or older, who:

(a) Is physically or mentally incapable of living alone, as determined and certified by his or her physician licensed pursuant to chapter 334, or by the [division of aging] department staff when an assessment has been completed for the purpose of qualification for other services; and

(b) Requires assistance with activities of daily living to the extent that without care and oversight at home would require

placement in a facility licensed pursuant to chapter 198; and

(c) Under no circumstances, is able or allowed to operate a motor vehicle; and

(d) Does not receive funding or services through Medicaid or social services block grant funding;

(2) Live in the same residence to give protective oversight for the elderly person meeting the requirements described in subdivision (1) of this subsection for an aggregate of more than six months per tax year;

(3) Not receive monetary compensation for providing care for the elderly person meeting the requirements described in subdivision (1) of this subsection; and

(4) File the original completed and signed physician certification for shared care tax credit form or the original completed and signed **[**division of aging**]** department certification for shared care tax credit form provided for in subsection 2 of section **[**660.054**]** 192.1004 along with such caregiver's Missouri individual income tax return to the department of revenue.

2. The tax credit allowed by this section shall apply to any year beginning after December 31, 1999.

3. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in sections **[**660.050 to 660.057**]** 192.1000 to 192.1008 shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of

any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

4. Any person who knowingly falsifies any document required for the shared care tax credit shall be subject to the same penalties for falsifying other tax documents as provided in chapter 143.

[660.057.**]** 192.1008. 1. On and after August 13, 1984, an area agency on aging shall operate with local administrative responsibility for Title III of the Older Americans Act, and other funds allocated to it by the **[**division**]** department. The area agency board shall be responsible for all actions of an area agency on aging in its jurisdiction, including, but not limited to, the accountability for funds and compliance with federal and state laws and rules. Such responsibility shall include all geographic areas in which the area agency on aging is designated to operate. The respective area agency board shall appoint a director of the area agency on aging in its jurisdiction. Beginning January 1, 1995, the director of the area agency on aging shall submit an annual performance report to the **[**division**]** department director, the speaker of the house of representatives, the president pro tempore of the senate and the governor. Such performance report shall give a detailed accounting of all funds

which were available to and expended by the area agency on aging from state, federal and private sources.

2. Each area agency on aging shall have an area agency on aging advisory council, which shall:

(1) Recommend basic policy guidelines for the administration of the activities of the area agencies on aging on behalf of elderly persons and advise the area agency on aging on questions of policy;

(2) Advise the area agency on aging with respect to the development of the area plan and budget, and review and comment on the completed area plan and budget before its transmittal to the division;

(3) Review and evaluate the effectiveness of the area agency on aging in meeting the needs of elderly persons in the planning and service area;

(4) Meet at least quarterly, with all meetings being subject to sections 610.010 to 610.030.

3. Each area agency board shall:

(1) Conduct local planning functions for Title III and Title XX, and such other funds as may be available;

(2) Develop a local plan for service delivery, subject to review and approval by the division, that complies with federal and state requirements and in accord with locally determined objectives consistent with the state policy on aging;

(3) Assess the needs of elderly persons within the planning and service delivery area for service for social and health services, and determine what resources are currently available to meet those needs;

(4) Assume the responsibility of determining services required to meet the needs of elderly persons, assure that such services are provided within the resources available, and determine when such services are no longer needed;

(5) Endeavor to coordinate and expand existing resources in order to develop within its planning and service area a comprehensive and coordinated system for the delivery of social and health services to elderly persons;

(6) Serve as an advocate within government and within the community at large for the interests of elderly persons within its planning and service area;

(7) Make grants to or enter into contracts with any public or private agency for the provision of social or health services not otherwise sufficiently available to elderly persons within the planning and service area;

(8) Monitor and evaluate the activities of its service providers to ensure that the services being provided comply with the terms of the grant or contract. Where a provider is found to be in breach of the terms of its grant or contract, the area agency shall enforce the terms of the grant or contract;

(9) Conduct research, evaluation, demonstration or training activities appropriate to the achievement of the goal of improving the quality of life for elderly persons within its planning and service area;

(10) Comply with division requirements that have been developed in consultation with the area agencies for client and fiscal information, and provide to the division information necessary for federal and state reporting, program evaluation,

program management, fiscal control and research needs.

4. Beginning January 1, 1995, the records of each area agency on aging shall be audited at least every other year. All audits required by the Older Americans Act of 1965, as amended, shall satisfy this requirement.

[660.058.**]** 192.1010. 1. The **[**division of aging**]** department shall provide budget allotment tables to each area agency on aging by January first of each year. Each area agency on aging shall submit its area plan, area budget and service contracts to the **[**division of aging**]** department by March first of each year. Each April, the area agencies on aging shall present their plans to the **[**division of aging**]** department in a public hearing scheduled by the **[**division**]** department and held in the area served by the area agency on aging. Within thirty days of such hearing, the **[**division**]** department shall report findings and recommendations to the board of directors for the area agency on aging, the area agency on aging advisory council, the members of the senate budget committee and the members of the house appropriations committee **[**for social services and corrections**]** assigned the department of health and senior services.

2. Each area agency on aging shall include in its area plan performance measures and outcomes to be achieved for each year covered by the plan. Such measures and outcomes shall also be presented to the **[**division**]** department during the public hearing.

3. The **[**division of aging**]** department shall conduct on-site monitoring of each area agency on aging at least once a year. The **[**division of aging**]** department shall send all monitoring reports to the area agency on aging advisory council and the

board of directors for the area agency which is the subject of the reports.

[660.062.**]** 192.1012. 1. There is hereby created a "State Board of Senior Services" which shall consist of seven members, who shall be appointed by the governor, by and with the advice and consent of the senate. No member of the state board of senior services shall hold any other office or employment under the state of Missouri other than in a consulting status relevant to the member's professional status, licensure or designation. Not more than four of the members of the state board of senior services shall be from the same political party.

2. Each member shall be appointed for a term of four years; except that of the members first appointed, two shall be appointed for a term of one year, two for a term of two years, two for a term of three years and one for a term of four years. The successors of each shall be appointed for full terms of four years. No person may serve on the state board of senior services for more than two terms. The terms of all members shall continue until their successors have been duly appointed and qualified. One of the persons appointed to the state board of senior services shall be a person currently working in the field of gerontology. One of the persons appointed to the state board of senior services shall be a physician with expertise in geriatrics. One of the persons appointed to the state board of senior services shall be a person with expertise in nutrition. One of the persons appointed to the state board of senior services shall be a person with expertise in rehabilitation services of persons with disabilities. One of the persons

appointed to the state board of senior services shall be a person with expertise in mental health issues. In making the two remaining appointments, the governor shall give consideration to individuals having a special interest in gerontology or disability-related issues, including senior citizens. Four of the seven members appointed to the state board of senior services shall be members of the governor's advisory council on aging. If a vacancy occurs in the appointed membership, the governor may appoint a member for the remaining portion of the unexpired term created by the vacancy. The members shall receive actual and necessary expenses plus twenty-five dollars per day for each day of actual attendance.

3. The board shall elect from among its membership a chairman and a vice chairman, who shall act as chairman in his or her absence. The board shall meet at the call of the chairman. The chairman may call meetings at such times as he or she deems advisable, and shall call a meeting when requested to do so by three or more members of the board.

4. The state board of senior services shall advise the department of health and senior services in the:

(1) Promulgation of rules and regulations by the department of health and senior services;

(2) Formulation of the budget for the department of health and senior services; and

(3) Planning for and operation of the department of health and senior services.

[660.067.**]** 192.1020. As used in sections **[**660.067 to 660.070**]** 192.1020 to 192.1024, the following terms shall mean:

(1) "Adult day care", a group program that emphasizes appropriate services for persons eighteen years of age or older having Alzheimer's disease and related disorders and that provides services for periods of less than twenty-four hours but more than two hours per day in a place other than the adult's home;

(2) "Alzheimer's disease and related disorders", diseases resulting from significant destruction of brain tissue and characterized by a decline of memory and other intellectual functions. These diseases include but are not limited to progressive, degenerative and dementing illnesses such as presenile and senile dementias, Alzheimer's disease and other related disorders;

(3) "Appropriate services", services that emphasize surveillance, safety, behavior management and other techniques used to assist persons having Alzheimer's disease and related disorders;

(4) "Department", the department of health and senior services;

(5) "Director", the director of the **[**division of aging of the department of social**]** department of health and senior services;

[(5) "Division", the division of aging of the department of social services;**]**

(6) "In-home companion", someone trained to provide appropriate services to persons having Alzheimer's disease and related disorders and who provides those services in the home;

(7) "Respite care", a program that provides temporary and

short-term residential care, sustenance, supervision and other appropriate services for persons having Alzheimer's disease and related disorders who otherwise reside in their own or in a family home.

[660.069.**]** 192.1022. 1. To encourage development of appropriate services for persons having Alzheimer's disease and related disorders, the **[**division**]** department may make grants to public and private entities for pilot projects from funds specifically appropriated for this purpose. Pilot projects shall have the following goals:

(1) To prevent or postpone institutionalization of persons having Alzheimer's disease and related disorders who currently live in their own home or in a family home;

(2) To offer services that emphasize safety, surveillance and behavior management rather than, or in addition to, medical treatment, homemaker, chore or personal care services;

(3) To temporarily relieve family members or others who have assumed direct care responsibilities by offering services that allow care givers to leave the home. These services shall include but not be limited to adult day care, in-home companions and respite care;

(4) To test the practical and economic feasibility of providing services in settings and at levels designed for varying needs; and

(5) To develop program models that can be adapted and operated by other public and private entities.

2. The director, in accordance with chapter 536, shall promulgate rules that establish procedures for grant application,

review, selection, monitoring and auditing of grants made pursuant to sections [660.067 to 660.070] 192.1020 to 192.1024.

3. The grants shall be limited to a duration of one year but may be renewable for one additional year at the director's discretion and if funds are appropriated for this purpose.

[660.070.] 192.1024. The commissioner of administration, in consultation with the director of the [division of aging] department, shall promulgate rules that establish procedures for contracting with grantees receiving funds under sections [660.067 to 660.070] 192.1020 to 192.1024. No rule or portion of a rule promulgated under the authority of sections [660.067 to 660.070] 192.1020 to 192.1024 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

[660.225.] 192.1030. The [division of aging] department shall use the services of community based, not-for-profit organizations including senior centers for the provision of home delivered meals to qualified recipients prepared by such organizations if such service is available at not more than seventy-five percent of the cost currently incurred by the [division] department for the provision of such service.

[660.400.] 192.1040. As used in sections [199.025 and 660.403 to 660.420] 192.1040 to 192.1058, unless the context clearly indicates otherwise, the following terms mean:

(1) "Adult", an individual over the age of eighteen;

(2) "Adult day care program", a group program designed to provide care and supervision to meet the needs of functionally impaired adults for periods of less than twenty-four hours but more than two hours per day in a place other than the adult's own

home;

(3) "Adult day care provider", the person, corporation, partnership, association or organization legally responsible for the overall operation of the adult day care program;

(4) "Department", the department of **[**social**]** health and senior services;

(5) "Director", the director of the **[**division of aging**]** department of health and senior services;

(6) **[**"Division", the division of aging;

(7)**]** "Functionally impaired adult", an adult who by reason of age or infirmity requires care and supervision;

[(8)**]** (7) "License", the document issued by the **[**division**]** department in accordance with the provisions of sections **[**199.025 and 660.403 to 660.420**]** 192.1040 to 192.1058 to an adult day care program which authorizes the adult day care provider to operate the program in accordance with the provisions of sections **[**199.025 and 660.403 to 660.420**]** 192.1040 to 192.1058 and the applicable rules promulgated pursuant thereto;

[(9)**]** (8) "Participant", a functionally impaired adult who is enrolled in an adult day care program;

[(10)**]** (9) "Person", any individual, firm, corporation, partnership, association, agency, or an incorporated or unincorporated organization regardless of the name used;

[(11)**]** (10) "Provisional license", the document issued by the **[**division**]** department in accordance with the provisions of sections **[**199.025 and 660.403 to 660.420**]** 192.1040 to 192.1058 to an adult day care provider which is not currently meeting the requirements necessary to obtain a license;

[(12)**]** (11) "Related", any of the following by blood, marriage or adoption: parent, child, grandchild, brother, sister, half-brother, half-sister, stepparent, uncle, aunt, niece, nephew, or first cousin;

[(13)**]** (12) "Staff participant ratio", the number of adult care staff required by the **[**division**]** department in relation to the number of adults being cared for by such staff.

[660.403.**]** 192.1042. 1. It shall be unlawful for any person to establish, maintain, or operate an adult day care program, or to advertise or hold himself or herself out as being able to perform any adult day care service, unless he or she has obtained the proper license.

2. All applications for licenses shall be made on forms provided by the **[**division**]** department and in the manner prescribed by the **[**division**]** department. All forms provided shall include a fee schedule.

3. The **[**division**]** department shall conduct an investigation of the adult day care program, and the applicant, for which a license is sought in order to determine if such program is complying with the following:

(1) Local fire safety requirements or fire safety requirements of the **[**division**]** department if there are no local codes;

(2) Local or state sanitation requirements;

(3) Local building and zoning requirements, where applicable;

(4) Staff/adult ratios required by the **[**division**]** department; and

(5) Other applicable provisions of sections [199.025 and 660.403 to 660.420] 192.1040 to 192.1058 and all applicable rules promulgated pursuant thereto, including but not limited to:

(a) The applicant's ability to render adult day care;

(b) The proposed plan for providing adult day care;

(c) The proposed plan of operation of the adult day care program, so that, in the judgment of the [division] department, minimum standards are being met to insure the health and safety of the participants.

4. Following completion of its investigation made pursuant to subsection 3 of this section and a finding that the applicant for a license has complied with all applicable rules promulgated pursuant to sections [199.025 and 660.403 to 660.420 the division] 192.1040 to 192.1058, the department shall issue a license to such applicant. Such license shall be valid for the period designated by the [division] department, which period shall not exceed two years from the date of issuance, for the premises and persons named in the application.

5. Each license issued under sections [199.025 and 660.403 to 660.420] 192.1040 to 192.1058 shall include the name of the provider, owner and operator; the name of the adult day care program; the location of the adult day care program; the hours of operations; the number and any limitations or the type of participants who may be served; and the period for which such license is valid.

6. The [division] department may issue a provisional license to an adult day care program that is not currently meeting requirements for a license but which demonstrates the

potential capacity to meet full requirements for license; except that, no provisional license shall be issued unless the director is satisfied that the operation of the adult day care program is not detrimental to the health and safety of the participants being served. The provisional license shall be nonrenewable and shall be valid for the period designated by the **[**division**]** department, which period shall not exceed six months from the date of issuance. Upon issuance of a regular license, a day care program's provisional license shall immediately be null and void.

[660.405.**]** 192.1044. 1. The provisions of sections **[**199.025 and 660.403 to 660.420**]** 192.1040 to 192.1058 shall not apply to the following:

(1) Any adult day care program operated by a person in which care is offered for no more than two hours per day;

(2) Any adult day care program maintained or operated by the federal government except where care is provided through a management contract;

(3) Any person who cares solely for persons related to the provider or who has been designated as guardian of that person;

(4) Any adult day care program which cares for no more than four persons unrelated to the provider;

(5) Any adult day care program licensed by the department of mental health under chapter 630 which provides care, treatment and habilitation exclusively to adults who have a primary diagnosis of mental disorder, mental illness, mental retardation or developmental disability as defined;

(6) Any adult day care program administered or maintained by a religious not-for-profit organization serving a social or

religious function if the adult day care program does not hold itself out as providing the prescription or usage of physical or medical therapeutic activities or as providing or administering medicines or drugs.

2. Nothing in this section shall prohibit any person listed in subsection 1 of this section from applying for a license or receiving a license if the adult day care program owned or operated by such person conforms to the provisions of sections **[**199.025 and 660.403 to 660.420**]** 192.1040 to 192.1058 and all applicable rules promulgated pursuant thereto.

[660.407.**]** 192.1046. 1. The director, or **[**his**]** the director's authorized representative, shall have the right to enter the premises of an applicant for or holder of a license at any time during the hours of operation of a center to determine compliance with provisions of sections **[**199.025 and 660.403 to 660.420**]** 192.1040 to 192.1058 and applicable rules promulgated pursuant thereto. Entry shall also be granted for investigative purposes involving complaints regarding the operations of an adult day care program. The **[**division**]** department shall make at least two inspections per year, at least one of which shall be unannounced to the operator or provider. The **[**division**]** department may make such other inspections, announced or unannounced, as it deems necessary to carry out the provisions of sections **[**199.025 and 660.403 to 660.420**]** 192.1040 to 192.1058.

2. The applicant for or holder of a license shall cooperate with the investigation and inspection by providing access to the adult day care program, records and staff, and by providing access to the adult day care program to determine compliance with

the rules promulgated pursuant to sections [199.025 and 660.403 to 660.420] 192.1040 to 192.1058.

3. Failure to comply with any lawful request of the [division] department in connection with the investigation and inspection is a ground for refusal to issue a license or for the suspension or revocation of a license.

4. The [division] department may designate to act for it, with full authority of law, any instrumentality of any political subdivision of the state of Missouri deemed by the [division] department to be competent to investigate and inspect applicants for or holders of licenses.

[660.409.] 192.1048. Each application for a license, or the renewal thereof, issued pursuant to sections [199.025 and 660.403 to 660.420] 192.1040 to 192.1058 shall be accompanied by a nonrefundable fee in the amount required by the [division] department. The fee, to be determined by the director [of the division], shall not exceed one hundred dollars and shall be based on the licensed capacity of the applicant.

[660.411.] 192.1050. The [division] department shall offer technical assistance or consultation to assist applicants for or holders of licenses or provisional licenses in meeting the requirements of sections [199.025 and 660.403 to 660.420] 192.1040 to 192.1058, staff qualifications, and other aspects involving the operation of an adult day care program, and to assist in the achievement of programs of excellence related to the provision of adult day care.

[660.414.] 192.1052. 1. Whenever the [division] department is advised or has reason to believe that any person is operating

an adult day care program without a license, or provisional license, or that any holder of license, or provisional license is not in compliance with the provisions of sections **[**199.025 and 660.403 to 660.420**]** 192.1040 to 192.1058, the **[**division**]** department shall make an investigation and inspection to ascertain the facts. If the **[**division**]** department is not permitted access to the adult day care program in question, the **[**division**]** department may apply to the circuit court of the county in which the program is located for an order authorizing entry for inspection. The court shall issue the order if it finds reasonable grounds necessitating the inspection.

2. If the **[**division**]** department finds that the adult day care program is being operated in violation of sections **[**199.025 and 660.403 to 660.420**]** 192.1040 to 192.1058, it may seek, among other remedies, injunctive relief against the adult day care program.

[660.416.**]** 192.1054. 1. Any person aggrieved by an official action of the **[**division**]** department either refusing to issue a license or revoking or suspending a license may seek a determination thereon by the administrative hearing commission pursuant to the provisions of section 161.272, et seq.; except that, the petition must be filed with the administrative hearing commission within thirty days after the mailing or delivery of notice to the applicant for or holder of such license or certificate. When the notification of the official action is mailed to the applicant for or holder of such a license, there shall be included in the notice a statement of the procedure whereby the applicant for or holder of such license may appeal

the decision of the [division] department before the administrative hearing commission. It shall not be a condition to such determination that the person aggrieved seek a reconsideration, a rehearing or exhaust any other procedure within the [division] department.

2. The administrative hearing commission may stay the revocation or suspension of such certificate or license, pending the commission's findings and determination in the cause, upon such conditions as the commission deems necessary and appropriate including the posting of bond or other security; except that, the commission shall not grant a stay or if a stay has already been entered shall set aside its stay, if, upon application of the [division] department, the commission finds reason to believe that continued operation of the facility to which the certificate or license in question applies pending the commission's final determination would present an imminent danger to the health, safety or welfare of any person or a substantial probability that death or serious physical harm would result. In any case in which the [division] department has refused to issue a certificate or license, the commission shall have no authority to stay or to require the issuance of a license pending final determination by the commission.

3. The administrative hearing commission shall make the final decision as to the issuance, suspension, or revocation of a license. Any person aggrieved by a final decision of the administrative hearing commission, including the [division] department, may seek judicial review of such decision by filing a petition for review in the court of appeals for the district in

which the adult day care program to which the license in question applies is located. Review shall be had in accordance with the provisions of sections 161.337 and 161.338.

[660.418.**]** 192.1056. The director of the **[**division**]** department shall have the authority to promulgate rules pursuant to this section and chapter 536 in order to carry out the provisions of sections **[**199.025 and 660.403 to 660.420**]** 192.1040 to 192.1058. No rule or portion of a rule promulgated under the authority of section **[**199.025 and sections 660.403 to 660.420**]** 192.1040 to 192.1058 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

[660.420.**]** 192.1058. 1. Any person who violates any provision of sections **[**199.025 and 660.403 to 660.420**]** 192.1040 to 192.1058, or who, for himself or for any other person, makes materially false statements in order to obtain a certificate or license, or the renewal thereof, issued pursuant to sections **[**199.025 and 660.403 to 660.420**]** 192.1040 to 192.1058, shall be guilty of a class A misdemeanor.

2. Any person who is convicted pursuant to this section shall, in addition to all other penalties provided by law, have any license issued to him or her under sections **[**199.025 and 660.403 to 660.420**]** 192.1040 to 192.1058 revoked, and shall not operate, nor hold any license to operate, any adult day care program, or other entity governed by the provisions of sections **[**199.025 and 660.403 to 660.420**]** 192.1040 to 192.1058 for a period of three years after such conviction.

[660.600.**]** 192.1060. As used in sections **[**660.600 to 660.608**]** 192.1060 to 192.1066, the following terms mean:

(1) **[**"Division", the division of aging of the department of social services**]** "Department", the department of health and senior services;

(2) "Long-term care facility", any facility licensed pursuant to chapter 198 and long-term care facilities connected with hospitals licensed pursuant to chapter 197;

(3) "Office", the office of the state ombudsman for long-term care facility residents;

(4) "Ombudsman", the state ombudsman for long-term care facility residents;

(5) "Regional ombudsman coordinators", designated individuals working for, or under contract with, the area agencies on aging, and who are so designated by the area agency on aging and certified by the ombudsman as meeting the qualifications established by the **[**division**]** department;

(6) "Resident", any person who is receiving care or treatment in a long-term care facility.

[660.603.**]** 192.1062. 1. There is hereby established within the department of health and senior services the "Office of State Ombudsman for Long-Term Care Facility Residents", for the purpose of helping to assure the adequacy of care received by residents of long-term care facilities and to improve the quality of life experienced by them, in accordance with the federal Older Americans Act, 42 U.S.C. 3001, et seq.

2. The office shall be administered by the state ombudsman, who shall devote his or her entire time to the duties of his or her position.

3. The office shall establish and implement procedures for

receiving, processing, responding to, and resolving complaints made by or on behalf of residents of long-term care facilities relating to action, inaction, or decisions of providers, or their representatives, of long-term care services, of public agencies or of social service agencies, which may adversely affect the health, safety, welfare or rights of such residents.

4. The department shall establish and implement procedures for resolution of complaints. The ombudsman or representatives of the office shall have the authority to:

(1) Enter any long-term care facility and have access to residents of the facility at a reasonable time and in a reasonable manner. The ombudsman shall have access to review resident records, if given permission by the resident or the resident's legal guardian. Residents of the facility shall have the right to request, deny, or terminate visits with an ombudsman;

(2) Make the necessary inquiries and review such information and records as the ombudsman or representative of the office deems necessary to accomplish the objective of verifying these complaints.

5. The office shall acknowledge complaints, report its findings, make recommendations, gather and disseminate information and other material, and publicize its existence.

6. The ombudsman may recommend to the relevant governmental agency changes in the rules and regulations adopted or proposed by such governmental agency which do or may adversely affect the health, safety, welfare, or civil or human rights of any resident in a facility. The office shall analyze and monitor the

development and implementation of federal, state and local laws, regulations and policies with respect to long-term care facilities and services in the state and shall recommend to the department changes in such laws, regulations and policies deemed by the office to be appropriate.

7. The office shall promote community contact and involvement with residents of facilities through the use of volunteers and volunteer programs directed by the regional ombudsman coordinators.

8. The office shall develop and establish by regulation of the department statewide policies and standards for implementing the activities of the ombudsman program, including the qualifications and the training of regional ombudsman coordinators and ombudsman volunteers.

9. The office shall develop and propose programs for use, training and coordination of volunteers in conjunction with the regional ombudsman coordinators and may:

(1) Establish and conduct recruitment programs for volunteers;

(2) Establish and conduct training seminars, meetings and other programs for volunteers; and

(3) Supply personnel, written materials and such other reasonable assistance, including publicizing their activities, as may be deemed necessary.

10. The regional ombudsman coordinators and ombudsman volunteers shall have the authority to report instances of abuse and neglect to the ombudsman hotline operated by the department.

11. If the regional ombudsman coordinator or volunteer

finds that a nursing home administrator is not willing to work with the ombudsman program to resolve complaints, the state ombudsman shall be notified. The department shall establish procedures by rule in accordance with chapter 536 for implementation of this subsection.

12. The office shall prepare and distribute to each facility written notices which set forth the address and telephone number of the office, a brief explanation of the function of the office, the procedure to follow in filing a complaint and other pertinent information.

13. The administrator of each facility shall ensure that such written notice is given to every resident or the resident's guardian upon admission to the facility and to every person already in residence, or to his or her guardian. The administrator shall also post such written notice in a conspicuous, public place in the facility in the number and manner set forth in the regulations adopted by the department.

14. The office shall inform residents, their guardians or their families of their rights and entitlements under state and federal laws and rules and regulations by means of the distribution of educational materials and group meetings.

[660.605.**]** 192.1064. 1. Any files maintained by the ombudsman program shall be disclosed only at the discretion of the ombudsman having authority over the disposition of such files, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed by such ombudsman unless:

(1) Such complainant or resident, or the complainant's or

resident's legal representative, consents in writing to such disclosure; or

(2) Such disclosure is required by court order.

2. Any representative of the office conducting or participating in any examination of a complaint who shall knowingly and willfully disclose to any person other than the office, or those authorized by the office to receive it, the name of any witness examined or any information obtained or given upon such examination, shall be guilty of a class A misdemeanor. However, the ombudsman conducting or participating in any examination of a complaint shall disclose the final result of the examination to the facility with the consent of the resident.

3. Any statement or communication made by the office relevant to a complaint received by, proceedings before or activities of the office and any complaint or information made or provided in good faith by any person, shall be absolutely privileged and such person shall be immune from suit.

4. The office shall not be required to testify in any court with respect to matters held to be confidential in this section except as the court may deem necessary to enforce the provisions of sections **[**660.600 to 660.608**]** 192.1060 to 192.1066, or where otherwise required by court order.

[660.608.**]** 192.1066. 1. Any regional coordinator or local program staff, whether an employee or an unpaid volunteer, shall be treated as a representative of the office. No representative of the office shall be held liable for good faith performance of his or her official duties under the provisions of sections **[**660.600 to 660.608**]** 192.1060 to 192.1066 and shall be immune

from suit for the good faith performance of such duties. Every representative of the office shall be considered a state employee under section 105.711.

2. No reprisal or retaliatory action shall be taken against any resident or employee of a long-term care facility for any communication made or information given to the office. Any person who knowingly or willfully violates the provisions of this subsection shall be guilty of a class A misdemeanor. Any person who serves or served on a quality assessment and assurance committee required under 42 U.S.C. sec. 1396r(b)(1)(B) and 42 CFR sec. 483.75(r), or as amended, shall be immune from civil liability only for acts done directly as a member of such committee so long as the acts are performed in good faith, without malice and are required by the activities of such committee as defined in 42 CFR sec. 483.75(r).

[660.250.**]** 192.1080. As used in sections **[**660.250 to 660.321**]** 192.1080 to 192.1114, the following terms mean:

(1) "Abuse", the infliction of physical, sexual, or emotional injury or harm including financial exploitation by any person, firm or corporation;

(2) "Court", the circuit court;

(3) "Department", the department of health and senior services;

(4) "Director", director of the department of health and senior services or his or her designees;

(5) "Eligible adult", a person sixty years of age or older who is unable to protect his or her own interests or adequately perform or obtain services which are necessary to meet his or her

essential human needs or an adult with a disability, as defined in section [660.053] 192.1002, between the ages of eighteen and fifty-nine who is unable to protect his or her own interests or adequately perform or obtain services which are necessary to meet his or her essential human needs;

(6) "Home health agency", the same meaning as such term is defined in section 197.400;

(7) "Home health agency employee", a person employed by a home health agency;

(8) "Home health patient", an eligible adult who is receiving services through any home health agency;

(9) "In-home services client", an eligible adult who is receiving services in his or her private residence through any in-home services provider agency;

(10) "In-home services employee", a person employed by an in-home services provider agency;

(11) "In-home services provider agency", a business entity under contract with the department or with a Medicaid participation agreement, which employs persons to deliver any kind of services provided for eligible adults in their private homes;

(12) "Least restrictive environment", a physical setting where protective services for the eligible adult and accommodation is provided in a manner no more restrictive of an individual's personal liberty and no more intrusive than necessary to achieve care and treatment objectives;

(13) "Likelihood of serious physical harm", one or more of the following:

(a) A substantial risk that physical harm to an eligible adult will occur because of his or her failure or inability to provide for his or her essential human needs as evidenced by acts or behavior which has caused such harm or which gives another person probable cause to believe that the eligible adult will sustain such harm;

(b) A substantial risk that physical harm will be inflicted by an eligible adult upon himself or herself, as evidenced by recent credible threats, acts, or behavior which has caused such harm or which places another person in reasonable fear that the eligible adult will sustain such harm;

(c) A substantial risk that physical harm will be inflicted by another upon an eligible adult as evidenced by recent acts or behavior which has caused such harm or which gives another person probable cause to believe the eligible adult will sustain such harm;

(d) A substantial risk that further physical harm will occur to an eligible adult who has suffered physical injury, neglect, sexual or emotional abuse, or other maltreatment or wasting of his or her financial resources by another person;

(14) "Neglect", the failure to provide services to an eligible adult by any person, firm or corporation with a legal or contractual duty to do so, when such failure presents either an imminent danger to the health, safety, or welfare of the client or a substantial probability that death or serious physical harm would result;

(15) "Protective services", services provided by the state or other governmental or private organizations or individuals

which are necessary for the eligible adult to meet his or her essential human needs.

[660.255.**]** 192.1082. 1. Any person having reasonable cause to suspect that an eligible adult presents a likelihood of suffering serious physical harm and is in need of protective services shall report such information to the department.

2. The report shall be made orally or in writing. It shall include, if known:

(1) The name, age, and address of the eligible adult;

(2) The name and address of any person responsible for the eligible adult's care;

(3) The nature and extent of the eligible adult's condition; and

(4) Other relevant information.

3. Reports regarding persons determined not to be eligible adults as defined in section **[**660.250**]** 192.1080 shall be referred to the appropriate state or local authorities.

4. The department shall maintain a statewide toll free phone number for receipt of reports.

[660.260.**]** 192.1084. Upon receipt of a report, the department shall make a prompt and thorough investigation to determine whether or not an eligible adult is facing a likelihood of serious physical harm and is in need of protective services. The department shall provide for any of the following:

(1) Identification of the eligible adult and determination that the eligible adult is eligible for services;

(2) Evaluation and diagnosis of the needs of eligible adults;

(3) Provision of social casework, counseling or referral to the appropriate local or state authority;

(4) Assistance in locating and receiving alternative living arrangements as necessary;

(5) Assistance in locating and receiving necessary protective services; or

(6) The coordination and cooperation with other state agencies and public and private agencies in exchange of information and the avoidance of duplication of services.

[660.261.**]** 192.1086. Upon receipt of a report that an eligible adult between the ages of eighteen and fifty-nine is facing a likelihood of serious physical harm, the department shall:

(1) Investigate or refer the report to appropriate law enforcement or state agencies; and

(2) Provide services or refer to local community or state agencies.

[660.263.**]** 192.1088. 1. Reports made pursuant to sections **[**660.250 to 660.295**]** 192.1080 to 192.1100 shall be confidential and shall not be deemed a public record and shall not be subject to the provisions of section 109.180 or chapter 610.

2. Such reports shall be accessible for examination and copying only to the following persons or offices, or to their designees:

(1) The department or any person or agency designated by the department;

(2) The attorney general;

(3) The department of mental health for persons referred to

that department;

(4) Any appropriate law enforcement agency; and

(5) The eligible adult or **[**his**]** such adult's legal guardian.

3. The name of the reporter shall not be disclosed unless:

(1) Such reporter specifically authorizes disclosure of his or her name; and

(2) The department determines that disclosure of the name of the reporter is necessary in order to prevent further harm to an eligible adult.

4. Any person who violates the provisions of this section, or who permits or encourages the unauthorized dissemination of information contained in the central registry and in reports and records made pursuant to sections **[**660.250 to 660.295**]** 192.1080 to 192.1100, shall be guilty of a class A misdemeanor.

5. The department shall maintain a central registry capable of receiving and maintaining reports received in a manner that facilitates rapid access and recall of the information reported, and of subsequent investigations and other relevant information. The department shall electronically record any telephone report of suspected abuse and neglect received by the department and such recorded reports shall be retained by the department for a period of one year after recording.

6. Although reports to the central registry may be made anonymously, the department shall in all cases, after obtaining relevant information regarding the alleged abuse or neglect, attempt to obtain the name and address of any person making a report.

[660.265.**]** 192.1090. When an eligible adult gives consent to receive protective services, the department shall assist the adult in locating and arranging for necessary services in the least restrictive environment reasonably available.

[660.270.**]** 192.1092. When the department receives a report that there has been abuse or neglect, or that there otherwise is a likelihood of serious physical harm to an eligible adult and that he or she is in need of protective services and the department is unable to conduct an investigation because access to the eligible adult is barred by any person, the director may petition the appropriate court for a warrant or other order to enter upon the described premises and investigate the report or to produce the information. The application for the warrant or order shall identify the eligible adult and the facts and circumstances which require the issuance of the warrant or order. The director may also seek an order to enjoin the person from barring access to an eligible adult or from interfering with the investigation. If the court finds that, based on the report and relevant circumstances and facts, probable cause exists showing that the eligible adult faces abuse or neglect, or otherwise faces a likelihood of serious physical harm and is in need of protective services and the director has been prevented by another person from investigating the report, the court may issue the warrant or enjoin the interference with the investigation or both.

[660.275.**]** 192.1094. If an eligible adult gives consent to receive protective services and any other person interferes with or prevents the delivery of such services, the director may

petition the appropriate court for an order to enjoin the interference with the delivery of the services. The petition shall allege the consent of the eligible adult and shall allege specific facts sufficient to show that the eligible adult faces a likelihood of serious physical harm and is in need of the protective services and that delivery is barred by the person named in the petition. If the court finds upon a preponderance of evidence that the allegations in the petition are true, the court may issue an order enjoining the interference with the delivery of the protective services and may establish such conditions and restrictions on the delivery as the court deems necessary and proper under the circumstances.

[660.280.**]** 192.1096. When an eligible adult facing the likelihood of serious physical harm and in need of protective services is unable to give consent because of incapacity or legal disability and the guardian of the eligible adult refuses to provide the necessary services or allow the provision of such services, the director shall inform the court having supervisory jurisdiction over the guardian of the facts showing that the eligible adult faces the likelihood of serious physical harm and is in need of protective services and that the guardian refuses to provide the necessary services or allow the provision of such services under the provisions of sections **[**660.250 to 660.295**]** 192.1080 to 192.1100. Upon receipt of such information, the court may take such action as it deems necessary and proper to insure that the eligible adult is able to meet his or her essential human needs.

[660.285.**]** 192.1097. 1. If the director determines after

an investigation that an eligible adult is unable to give consent to receive protective services and presents a likelihood of serious physical harm, the director may initiate proceedings pursuant to chapter 202 or chapter 475, if appropriate.

2. In order to expedite adult guardianship and conservatorship cases, the department may retain, within existing funding sources of the department, legal counsel on a case-by-case basis.

[660.290.**]** 192.1098. 1. When a peace officer has probable cause to believe that an eligible adult will suffer an imminent likelihood of serious physical harm if not immediately placed in a medical facility for care and treatment, that the adult is incapable of giving consent, and that it is not possible to follow the procedures in section **[**660.285**]** 192.1097, the officer may transport, or arrange transportation for, the eligible adult to an appropriate medical facility which may admit the eligible adult and shall notify the next of kin, if known, and the director.

2. Where access to the eligible adult is barred and a substantial likelihood exists of serious physical harm resulting to the eligible adult if **[**he**]** such eligible adult is not immediately afforded protective services, the peace officer may apply to the appropriate court for a warrant to enter upon the described premises and remove the eligible adult. The application for the warrant shall identify the eligible adult and the circumstances and facts which require the issuance of the warrant.

3. If immediately upon admission to a medical facility, a

person who is legally authorized to give consent for the provision of medical treatment for the eligible adult, has not given or refused to give such consent, and it is the opinion of the medical staff of the facility that treatment is necessary to prevent serious physical harm, the director or the head of the medical facility shall file a petition in the appropriate court for an order authorizing specific medical treatment. The court shall hold a hearing and issue its decision forthwith. Notwithstanding the above, if a licensed physician designated by the facility for such purpose examines the eligible adult and determines that the treatment is immediately or imminently necessary and any delay occasioned by the hearing provided in this subsection would jeopardize the life of the person affected, the medical facility may treat the eligible adult prior to such court hearing.

4. The court shall conduct a hearing pursuant to chapter 475 forthwith and, if the court finds the eligible adult incapacitated, it shall appoint a guardian ad litem for the person of the eligible adult to determine the nature and extent of the medical treatment necessary for the benefit of the eligible adult and to supervise the rendition of such treatment. The guardian ad litem shall promptly report the completion of treatment to the court, who shall thereupon conduct a restoration hearing or a hearing to appoint a permanent guardian.

5. The medical care under this section may not be rendered in a mental health facility unless authorized pursuant to the civil commitment procedures in chapter 632.

6. Nothing contained in this section or in any other

section of sections [660.250 to 660.295] 192.1080 to 192.1100 shall be construed as requiring physician or medical care or hospitalization of any person who, because of religious faith or conviction, relies on spiritual means or prayer to cure or prevent disease or suffering nor shall any provision of sections [660.250 to 660.295] 192.1080 to 192.1100 be construed so as to designate any person as an eligible adult who presents a likelihood of suffering serious physical harm and is in need of protective services solely because such person, because of religious faith or conviction, relies on spiritual means or prayer to cure or prevent disease or suffering.

[660.295.] 192.1100. If an eligible adult does not consent to the receipt of reasonable and necessary protective services, or if an eligible adult withdraws previously given consent, the protective services shall not be provided or continued; except that, if the director has reasonable cause to believe that the eligible adult lacks the capacity to consent, the director may seek a court order pursuant to the provisions of section [660.285] 192.1097.

[660.300.] 192.1102. 1. When any adult day care worker; chiropractor; Christian Science practitioner; coroner; dentist; embalmer; employee of the departments of social services, mental health, or health and senior services; employee of a local area agency on aging or an organized area agency on aging program; funeral director; home health agency or home health agency employee; hospital and clinic personnel engaged in examination, care, or treatment of persons; in-home services owner, provider, operator, or employee; law enforcement officer; long-term care

facility administrator or employee; medical examiner; medical resident or intern; mental health professional; minister; nurse; nurse practitioner; optometrist; other health practitioner; peace officer; pharmacist; physical therapist; physician; physician's assistant; podiatrist; probation or parole officer; psychologist; or social worker has reasonable cause to believe that an in-home services client has been abused or neglected, as a result of in-home services, he or she shall immediately report or cause a report to be made to the department. If the report is made by a physician of the in-home services client, the department shall maintain contact with the physician regarding the progress of the investigation.

2. When a report of deteriorating physical condition resulting in possible abuse or neglect of an in-home services client is received by the department, the client's case manager and the department nurse shall be notified. The client's case manager shall investigate and immediately report the results of the investigation to the department nurse. The department may authorize the in-home services provider nurse to assist the case manager with the investigation.

3. If requested, local area agencies on aging shall provide volunteer training to those persons listed in subsection 1 of this section regarding the detection and report of abuse and neglect pursuant to this section.

4. Any person required in subsection 1 of this section to report or cause a report to be made to the department who fails to do so within a reasonable time after the act of abuse or neglect is guilty of a class A misdemeanor.

5. The report shall contain the names and addresses of the in-home services provider agency, the in-home services employee, the in-home services client, the home health agency, the home health agency employee, information regarding the nature of the abuse or neglect, the name of the complainant, and any other information which might be helpful in an investigation.

6. In addition to those persons required to report under subsection 1 of this section, any other person having reasonable cause to believe that an in-home services client or home health patient has been abused or neglected by an in-home services employee or home health agency employee may report such information to the department.

7. If the investigation indicates possible abuse or neglect of an in-home services client or home health patient, the investigator shall refer the complaint together with his or her report to the department director or his or her designee for appropriate action. If, during the investigation or at its completion, the department has reasonable cause to believe that immediate action is necessary to protect the in-home services client or home health patient from abuse or neglect, the department or the local prosecuting attorney may, or the attorney general upon request of the department shall, file a petition for temporary care and protection of the in-home services client or home health patient in a circuit court of competent jurisdiction. The circuit court in which the petition is filed shall have equitable jurisdiction to issue an ex parte order granting the department authority for the temporary care and protection of the in-home services client or home health patient, for a period not

to exceed thirty days.

8. Reports shall be confidential, as provided under section **[**660.320**]** 192.1112.

9. Anyone, except any person who has abused or neglected an in-home services client or home health patient, who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from the report shall be immune from any civil or criminal liability for making such a report or for testifying except for liability for perjury, unless such person acted negligently, recklessly, in bad faith, or with malicious purpose.

10. Within five working days after a report required to be made under this section is received, the person making the report shall be notified in writing of its receipt and of the initiation of the investigation.

11. No person who directs or exercises any authority in an in-home services provider agency or home health agency shall harass, dismiss or retaliate against an in-home services client or home health patient, or an in-home services employee or a home health agency employee because he or she or any member of his or her family has made a report of any violation or suspected violation of laws, standards or regulations applying to the in-home services provider agency or home health agency or any in-home services employee or home health agency employee which he or she has reasonable cause to believe has been committed or has occurred.

12. Any person who abuses or neglects an in-home services client or home health patient is subject to criminal prosecution

under section 565.180, 565.182, or 565.184. If such person is an in-home services employee and has been found guilty by a court, and if the supervising in-home services provider willfully and knowingly failed to report known abuse by such employee to the department, the supervising in-home services provider may be subject to administrative penalties of one thousand dollars per violation to be collected by the department and the money received therefor shall be paid to the director of revenue and deposited in the state treasury to the credit of the general revenue fund. Any in-home services provider which has had administrative penalties imposed by the department or which has had its contract terminated may seek an administrative review of the department's action pursuant to chapter 621. Any decision of the administrative hearing commission may be appealed to the circuit court in the county where the violation occurred for a trial de novo. For purposes of this subsection, the term "violation" means a determination of guilt by a court.

13. The department shall establish a quality assurance and supervision process for clients that requires an in-home services provider agency to conduct random visits to verify compliance with program standards and verify the accuracy of records kept by an in-home services employee.

14. The department shall maintain the employee disqualification list and place on the employee disqualification list the names of any persons who have been finally determined by the department, pursuant to section **[**660.315**]** 192.1108, to have recklessly, knowingly or purposely abused or neglected an in-home services client or home health patient while employed by an

in-home services provider agency or home health agency. For purposes of this section only, "knowingly" and "recklessly" shall have the meanings that are ascribed to them in this section. A person acts "knowingly" with respect to the person's conduct when a reasonable person should be aware of the result caused by his or her conduct. A person acts "recklessly" when the person consciously disregards a substantial and unjustifiable risk that the person's conduct will result in serious physical injury and such disregard constitutes a gross deviation from the standard of care that a reasonable person would exercise in the situation.

15. At the time a client has been assessed to determine the level of care as required by rule and is eligible for in-home services, the department shall conduct a "Safe at Home Evaluation" to determine the client's physical, mental, and environmental capacity. The department shall develop the safe at home evaluation tool by rule in accordance with chapter 536. The purpose of the safe at home evaluation is to assure that each client has the appropriate level of services and professionals involved in the client's care. The plan of service or care for each in-home services client shall be authorized by a nurse. The department may authorize the licensed in-home services nurse, in lieu of the department nurse, to conduct the assessment of the client's condition and to establish a plan of services or care. The department may use the expertise, services, or programs of other departments and agencies on a case-by-case basis to establish the plan of service or care. The department may, as indicated by the safe at home evaluation, refer any client to a mental health professional, as defined in 9 CSR 30-4.030, for

evaluation and treatment as necessary.

16. Authorized nurse visits shall occur at least twice annually to assess the client and the client's plan of services. The provider nurse shall report the results of his or her visits to the client's case manager. If the provider nurse believes that the plan of service requires alteration, the department shall be notified and the department shall make a client evaluation. All authorized nurse visits shall be reimbursed to the in-home services provider. All authorized nurse visits shall be reimbursed outside of the nursing home cap for in-home services clients whose services have reached one hundred percent of the average statewide charge for care and treatment in an intermediate care facility, provided that the services have been preauthorized by the department.

17. All in-home services clients shall be advised of their rights by the department or the department's designee at the initial evaluation. The rights shall include, but not be limited to, the right to call the department for any reason, including dissatisfaction with the provider or services. The department may contract for services relating to receiving such complaints. The department shall establish a process to receive such nonabuse and neglect calls other than the elder abuse and neglect hotline.

18. Subject to appropriations, all nurse visits authorized in sections **[**660.250 to 660.300**]** 192.1080 to 192.1102 shall be reimbursed to the in-home services provider agency.

[660.305.**]** 192.1104. 1. Any person having reasonable cause to believe that a misappropriation of an in-home services client's property or funds, or the falsification of any documents

verifying service delivery to the in-home services client has occurred, may report such information to the department.

2. For each report the department shall attempt to obtain the names and addresses of the in-home services provider agency, the in-home services employee, the in-home services client, information regarding the nature of the misappropriation or falsification, the name of the complainant, and any other information which might be helpful in an investigation.

3. Any in-home services provider agency or in-home services employee who puts to his or her own use or the use of the in-home services provider agency or otherwise diverts from the in-home services client's use any personal property or funds of the in-home services client, or falsifies any documents for service delivery, is guilty of a class A misdemeanor.

4. Upon receipt of a report, the department shall immediately initiate an investigation and report information gained from such investigation to appropriate law enforcement authorities.

5. If the investigation indicates probable misappropriation of property or funds, or falsification of any documents for service delivery of an in-home services client, the investigator shall refer the complaint together with the investigator's report to the department director or the director's designee for appropriate action.

6. Reports shall be confidential, as provided under section **[**660.320**]** 192.1112.

7. Anyone, except any person participating in or benefitting from the misappropriation of funds, who makes a

report pursuant to this section or who testifies in any administrative or judicial proceeding arising from the report shall be immune from any civil or criminal liability for making such a report or for testifying except for liability for perjury, unless such person acted negligently, recklessly, in bad faith, or with malicious purpose.

8. Within five working days after a report required to be made under this section is received, the person making the report shall be notified in writing of its receipt and of the initiation of the investigation.

9. No person who directs or exercises any authority in an in-home services provider agency shall harass, dismiss or retaliate against an in-home services client or employee because he or she or any member of his or her family has made a report of any violation or suspected violation of laws, ordinances or regulations applying to the in-home services provider agency or any in-home services employee which he or she has reasonable cause to believe has been committed or has occurred.

10. The department shall maintain the employee disqualification list and place on the employee disqualification list the names of any persons who are or have been employed by an in-home service provider agency and who have been finally determined by the department to, pursuant to section **[**660.315**]** 192.1108, have misappropriated any property or funds, or falsified any documents for service delivery of an in-home services client and who came to be known to the person, directly, or indirectly while employed by an in-home services provider agency.

[660.310.**]** 192.1106. 1. Notwithstanding any other provision of law, if the **[**department of health and senior services**]** Missouri Medicaid audit and compliance unit proposes to deny, suspend, place on probation, or terminate an in-home services provider agency contract, the **[**department of health and senior services**]** Missouri Medicaid audit and compliance unit shall serve upon the applicant or contractor written notice of the proposed action to be taken. The notice shall contain a statement of the type of action proposed, the basis for it, the date the action will become effective, and a statement that the applicant or contractor shall have thirty days from the date of mailing or delivery of the notice to file a complaint requesting a hearing before the administrative hearing commission. The administrative hearing commission may consolidate an applicant's or contractor's complaint with any proceeding before the administrative hearing commission filed by such contractor or applicant pursuant to subsection 3 of section 208.156 involving a common question of law or fact. Upon the filing of the complaint, the provisions of sections 621.110, 621.120, 621.125, 621.135, and 621.145 shall apply. With respect to cases in which the **[**department**]** unit has denied a contract to an in-home services provider agency, the administrative hearing commission shall conduct a hearing to determine the underlying basis for such denial. However, if the administrative hearing commission finds that the contract denial is supported by the facts and the law, the case need not be returned to the **[**department**]** unit. The administrative hearing commission's decision shall constitute affirmation of the **[**department's**]** unit's contract denial.

2. The [department of health and senior services] Missouri Medicaid audit and compliance unit may issue letters of censure or warning without formal notice or hearing.

3. The administrative hearing commission may stay the suspension or termination of an in-home services provider agency's contract, or the placement of the contractor on probation, pending the commission's findings and determination in the cause, upon such conditions, with or without the agreement of the parties, as the commission deems necessary and appropriate, including the posting of bond or other security except that the commission shall not grant a stay, or if a stay has already been entered shall set aside its stay, unless the commission finds that the contractor has established that servicing the [department's] MO HealthNet's clients pending the commission's final determination would not present an imminent danger to the health, safety, or welfare of any client or a substantial probability that death or serious physical harm would result. The commission may remove the stay at any time that it finds that the contractor has violated any of the conditions of the stay. Such stay shall remain in effect, unless earlier removed by the commission, pending the decision of the commission and any subsequent [departmental] unit action at which time the stay shall be removed. In any case in which the [department] unit has refused to issue a contract, the commission shall have no authority to stay or to require the issuance of a contract pending final determination by the commission.

4. Stays granted to contractors by the administrative hearing commission shall, as a condition of the stay, require at

a minimum that the contractor under the stay operate under the same contractual requirements and regulations as are in effect, from time to time, as are applicable to all other contractors in the program.

5. The administrative hearing commission shall make its final decision based upon the circumstances and conditions as they existed at the time of the action of the **[**department**]** unit and not based upon circumstances and conditions at the time of the hearing or decision of the commission.

6. In any proceeding before the administrative hearing commission pursuant to this section, the burden of proof shall be on the contractor or applicant seeking review.

7. Any person, including the **[**department**]** unit, aggrieved by a final decision of the administrative hearing commission may seek judicial review of such decision as provided in section 621.145.

[660.315.**]** 192.1108. 1. After an investigation and a determination has been made to place a person's name on the employee disqualification list, that person shall be notified in writing mailed to his or her last known address that:

(1) An allegation has been made against the person, the substance of the allegation and that an investigation has been conducted which tends to substantiate the allegation;

(2) The person's name will be included in the employee disqualification list of the department;

(3) The consequences of being so listed including the length of time to be listed; and

(4) The person's rights and the procedure to challenge the

allegation.

2. If no reply has been received within thirty days of mailing the notice, the department may include the name of such person on its list. The length of time the person's name shall appear on the employee disqualification list shall be determined by the director or the director's designee, based upon the criteria contained in subsection 9 of this section.

3. If the person so notified wishes to challenge the allegation, such person may file an application for a hearing with the department. The department shall grant the application within thirty days after receipt by the department and set the matter for hearing, or the department shall notify the applicant that, after review, the allegation has been held to be unfounded and the applicant's name will not be listed.

4. If a person's name is included on the employee disqualification list without the department providing notice as required under subsection 1 of this section, such person may file a request with the department for removal of the name or for a hearing. Within thirty days after receipt of the request, the department shall either remove the name from the list or grant a hearing and set a date therefor.

5. Any hearing shall be conducted in the county of the person's residence by the director of the department or the director's designee. The provisions of chapter 536 for a contested case except those provisions or amendments which are in conflict with this section shall apply to and govern the proceedings contained in this section and the rights and duties of the parties involved. The person appealing such an action

shall be entitled to present evidence, pursuant to the provisions of chapter 536, relevant to the allegations.

6. Upon the record made at the hearing, the director of the department or the director's designee shall determine all questions presented and shall determine whether the person shall be listed on the employee disqualification list. The director of the department or the director's designee shall clearly state the reasons for his or her decision and shall include a statement of findings of fact and conclusions of law pertinent to the questions in issue.

7. A person aggrieved by the decision following the hearing shall be informed of his or her right to seek judicial review as provided under chapter 536. If the person fails to appeal the director's findings, those findings shall constitute a final determination that the person shall be placed on the employee disqualification list.

8. A decision by the director shall be inadmissible in any civil action brought against a facility or the in-home services provider agency and arising out of the facts and circumstances which brought about the employment disqualification proceeding, unless the civil action is brought against the facility or the in-home services provider agency by the department of health and senior services or one of its divisions.

9. The length of time the person's name shall appear on the employee disqualification list shall be determined by the director of the department of health and senior services or the director's designee, based upon the following:

(1) Whether the person acted recklessly or knowingly, as

defined in chapter 562;

(2) The degree of the physical, sexual, or emotional injury or harm; or the degree of the imminent danger to the health, safety or welfare of a resident or in-home services client;

(3) The degree of misappropriation of the property or funds, or falsification of any documents for service delivery of an in-home services client;

(4) Whether the person has previously been listed on the employee disqualification list;

(5) Any mitigating circumstances;

(6) Any aggravating circumstances; and

(7) Whether alternative sanctions resulting in conditions of continued employment are appropriate in lieu of placing a person's name on the employee disqualification list. Such conditions of employment may include, but are not limited to, additional training and employee counseling. Conditional employment shall terminate upon the expiration of the designated length of time and the person's submitting documentation which fulfills the department of health and senior services' requirements.

10. The removal of any person's name from the list under this section shall not prevent the director from keeping records of all acts finally determined to have occurred under this section.

11. The department shall provide the list maintained pursuant to this section to other state departments upon request and to any person, corporation, organization, or association who:

(1) Is licensed as an operator under chapter 198;

(2) Provides in-home services under contract with the department of social services or its divisions or units;

(3) Employs nurses and nursing assistants for temporary or intermittent placement in health care facilities;

(4) Is approved by the department to issue certificates for nursing assistants training;

(5) Is an entity licensed under chapter 197;

(6) Is a recognized school of nursing, medicine, or other health profession for the purpose of determining whether students scheduled to participate in clinical rotations with entities described in subdivision (1), (2), or (5) of this subsection are included in the employee disqualification list; or

(7) Is a consumer reporting agency regulated by the federal Fair Credit Reporting Act that conducts employee background checks on behalf of entities listed in subdivisions (1), (2), (5), or (6) of this subsection. Such a consumer reporting agency shall conduct the employee disqualification list check only upon the initiative or request of an entity described in subdivisions (1), (2), (5), or (6) of this subsection when the entity is fulfilling its duties required under this section. The information shall be disclosed only to the requesting entity. The department shall inform any person listed above who inquires of the department whether or not a particular name is on the list. The department may require that the request be made in writing. No person, corporation, organization, or association who is entitled to access the employee disqualification list may disclose the information to any person, corporation, organization, or association who is not entitled to access the

list. Any person, corporation, organization, or association who is entitled to access the employee disqualification list who discloses the information to any person, corporation, organization, or association who is not entitled to access the list shall be guilty of an infraction.

12. No person, corporation, organization, or association who received the employee disqualification list under subdivisions (1) to (7) of subsection 11 of this section shall knowingly employ any person who is on the employee disqualification list. Any person, corporation, organization, or association who received the employee disqualification list under subdivisions (1) to (7) of subsection 11 of this section, or any person responsible for providing health care service, who declines to employ or terminates a person whose name is listed in this section shall be immune from suit by that person or anyone else acting for or in behalf of that person for the failure to employ or for the termination of the person whose name is listed on the employee disqualification list.

13. Any employer or vendor as defined in sections 197.250, 197.400, 198.006, 208.900, or 660.250 required to deny employment to an applicant or to discharge an employee, provisional or otherwise, as a result of information obtained through any portion of the background screening and employment eligibility determination process under section 210.903, or subsequent, periodic screenings, shall not be liable in any action brought by the applicant or employee relating to discharge where the employer is required by law to terminate the employee, provisional or otherwise, and shall not be charged for

unemployment insurance benefits based on wages paid to the employee for work prior to the date of discharge, pursuant to section 288.100, if the employer terminated the employee because the employee:

(1) Has been found guilty, pled guilty or nolo contendere in this state or any other state of a crime as listed in subsection 6 of section 660.317;

(2) Was placed on the employee disqualification list under this section after the date of hire;

(3) Was placed on the employee disqualification registry maintained by the department of mental health after the date of hire;

(4) Has a disqualifying finding under this section, section 660.317, or is on any of the background check lists in the family care safety registry under sections 210.900 to 210.936; or

(5) Was denied a good cause waiver as provided for in subsection 10 of section 660.317.

14. Any person who has been listed on the employee disqualification list may request that the director remove his or her name from the employee disqualification list. The request shall be written and may not be made more than once every twelve months. The request will be granted by the director upon a clear showing, by written submission only, that the person will not commit additional acts of abuse, neglect, misappropriation of the property or funds, or the falsification of any documents of service delivery to an in-home services client. The director may make conditional the removal of a person's name from the list on any terms that the director deems appropriate, and failure to

comply with such terms may result in the person's name being relisted. The director's determination of whether to remove the person's name from the list is not subject to appeal.

[660.317.**]** 192.1110. 1. For the purposes of this section, the term "provider" means any person, corporation or association who:

(1) Is licensed as an operator pursuant to chapter 198;

(2) Provides in-home services under contract with the department of social services or its divisions or units;

(3) Employs nurses or nursing assistants for temporary or intermittent placement in health care facilities;

(4) Is an entity licensed pursuant to chapter 197;

(5) Is a public or private facility, day program, residential facility or specialized service operated, funded or licensed by the department of mental health; or

(6) Is a licensed adult day care provider.

2. For the purpose of this section "patient or resident" has the same meaning as such term is defined in section 43.540.

3. Prior to allowing any person who has been hired as a full-time, part-time or temporary position to have contact with any patient or resident the provider shall, or in the case of temporary employees hired through or contracted for an employment agency, the employment agency shall prior to sending a temporary employee to a provider:

(1) Request a criminal background check as provided in section 43.540. Completion of an inquiry to the highway patrol for criminal records that are available for disclosure to a provider for the purpose of conducting an employee criminal

records background check shall be deemed to fulfill the provider's duty to conduct employee criminal background checks pursuant to this section; except that, completing the inquiries pursuant to this subsection shall not be construed to exempt a provider from further inquiry pursuant to common law requirements governing due diligence. If an applicant has not resided in this state for five consecutive years prior to the date of his or her application for employment, the provider shall request a nationwide check for the purpose of determining if the applicant has a prior criminal history in other states. The fingerprint cards and any required fees shall be sent to the highway patrol's central repository. The first set of fingerprints shall be used for searching the state repository of criminal history information. If no identification is made, the second set of fingerprints shall be forwarded to the Federal Bureau of Investigation, Identification Division, for the searching of the federal criminal history files. The patrol shall notify the submitting state agency of any criminal history information or lack of criminal history information discovered on the individual. The provisions relating to applicants for employment who have not resided in this state for five consecutive years shall apply only to persons who have no employment history with a licensed Missouri facility during that five-year period. Notwithstanding the provisions of section 610.120, all records related to any criminal history information discovered shall be accessible and available to the provider making the record request; and

(2) Make an inquiry to the department of health and senior

services whether the person is listed on the employee disqualification list as provided in section **[**660.315**]** 192.1108.

4. When the provider requests a criminal background check pursuant to section 43.540, the requesting entity may require that the applicant reimburse the provider for the cost of such record check. When a provider requests a nationwide criminal background check pursuant to subdivision (1) of subsection 3 of this section, the total cost to the provider of any background check required pursuant to this section shall not exceed five dollars which shall be paid to the state. State funding and the obligation of a provider to obtain a nationwide criminal background check shall be subject to the availability of appropriations.

5. An applicant for a position to have contact with patients or residents of a provider shall:

(1) Sign a consent form as required by section 43.540 so the provider may request a criminal records review;

(2) Disclose the applicant's criminal history. For the purposes of this subdivision "criminal history" includes any conviction or a plea of guilty to a misdemeanor or felony charge and shall include any suspended imposition of sentence, any suspended execution of sentence or any period of probation or parole; and

(3) Disclose if the applicant is listed on the employee disqualification list as provided in section **[**660.315**]** 192.1108.

6. An applicant who knowingly fails to disclose his or her criminal history as required in subsection 5 of this section is guilty of a class A misdemeanor. A provider is guilty of a class

A misdemeanor if the provider knowingly hires or retains a person to have contact with patients or residents and the person has been convicted of, pled guilty to or nolo contendere in this state or any other state or has been found guilty of a crime, which if committed in Missouri would be a class A or B felony violation of chapter 565, 566 or 569, or any violation of subsection 3 of section 198.070 or section 568.020.

7. Any in-home services provider agency or home health agency shall be guilty of a class A misdemeanor if such agency knowingly employs a person to provide in-home services or home health services to any in-home services client or home health patient and such person either refuses to register with the family care safety registry or is listed on any of the background check lists in the family care safety registry pursuant to sections 210.900 to 210.937.

8. The highway patrol shall examine whether protocols can be developed to allow a provider to request a statewide fingerprint criminal records review check through local law enforcement agencies.

9. A provider may use a private investigatory agency rather than the highway patrol to do a criminal history records review check, and alternatively, the applicant pays the private investigatory agency such fees as the provider and such agency shall agree.

10. Except for the hiring restriction based on the department of health and senior services employee disqualification list established pursuant to section **[**660.315**]** 192.1108, the department of health and senior services shall

promulgate rules and regulations to waive the hiring restrictions pursuant to this section for good cause. For purposes of this section, "good cause" means the department has made a determination by examining the employee's prior work history and other relevant factors that such employee does not present a risk to the health or safety of residents.

[660.320.**]** 192.1112. 1. Reports confidential under section 198.070 and sections **[**660.300 to 660.315**]** 192.1102 to 192.1108 shall not be deemed a public record and shall not be subject to the provisions of section 109.180 or chapter 610. The name of the complainant or any person mentioned in the reports shall not be disclosed unless:

(1) The complainant, resident or the in-home services client mentioned agrees to disclosure of his or her name;

(2) The department determines that disclosure is necessary in order to prevent further abuse, neglect, misappropriation of property or funds, or falsification of any documents verifying service delivery to an in-home services client;

(3) Release of a name is required for conformance with a lawful subpoena;

(4) Release of a name is required in connection with a review by the administrative hearing commission in accordance with section 198.039;

(5) The department determines that release of a name is appropriate when forwarding a report of findings of an investigation to a licensing authority; or

(6) Release of a name is requested **[**by the division of family services**]** for the purpose of licensure under chapter 210.

2. The department shall, upon request, provide to the division of employment security within the department of labor and industrial relations copies of the investigative reports that led to an employee being placed on the disqualification list.

[660.321.**]** 192.1114. Notwithstanding any other provision of law, the department shall not disclose personally identifiable medical, social, personal, or financial records of any eligible adult being served by the division of senior services except when disclosed in a manner that does not identify the eligible adult, or when ordered to do so by a court of competent jurisdiction. Such records shall be accessible without court order for examination and copying only to the following persons or offices, or to their designees:

(1) The department or any person or agency designated by the department for such purposes as the department may determine;

(2) The attorney general, to perform his or her constitutional or statutory duties;

(3) The department of mental health for residents placed through that department, to perform its constitutional or statutory duties;

(4) Any appropriate law enforcement agency, to perform its constitutional or statutory duties;

(5) The eligible adult, his or her legal guardian or any other person designated by the eligible adult; and

(6) The department of social services for individuals who receive Medicaid benefits, to perform its constitutional or statutory duties.

193.075. 1. The forms of certificates and reports required

by sections 193.005 to 193.325 or by regulations adopted hereunder shall include as a minimum the items recommended by the federal agency responsible for national vital statistics.

2. Each certificate, report, and other document required by sections 193.005 to 193.325 shall be on a form or in a format prescribed by the state registrar.

3. All vital records shall contain the date received for registration.

4. Information required in certificates or reports authorized by sections 193.005 to 193.325 may be filed and registered by photographic, electronic, or other means as prescribed by the state registrar.

5. In addition to other personal data required by the registrar to be entered on a birth certificate, each parent shall furnish to the registrar the Social Security account number, or numbers if applicable, issued to the parent unless the registrar finds good cause for not requiring the furnishing of such number or numbers. Good cause shall be determined in accordance with regulations established by the Secretary of the United States Department of Health and Human Services. The registrar shall make numbers furnished under this section available to the <u>family support</u> division **[**of child support enforcement**]** of the department of social services. Such numbers shall not be recorded on the birth certificate. The <u>family support</u> division **[**of child support enforcement**]** shall not use any Social Security number furnished under the section for any purpose other than for the establishment and enforcement of child support obligations, and the confidentiality provisions and penalties contained in section

454.440 shall apply. Nothing in this section shall be construed to prohibit the department of health and senior services from using Social Security numbers for statistical purposes.

193.215. 1. A certificate or report registered pursuant to sections 193.005 to 193.325 may be amended only pursuant to the provisions of sections 193.005 to 193.325, and regulations adopted by the department.

2. A certificate or report that is amended pursuant to this section shall be marked "Amended" except as otherwise provided in this section. The date of amendment and a summary description of the evidence submitted in support of the amendment shall be endorsed on or made part of the record.

3. Upon receipt of a certified copy of an order of a court of competent jurisdiction changing the name of a person born in this state and upon request of such person or such person's parents, guardian, or legal representative, the state registrar shall amend the certificate of birth to show the new name. The court order shall include such facts as are necessary to locate and identify the certificate of birth of the person whose name is being changed.

4. When an applicant does not submit the minimum documentation required in the regulations for amending a vital record or when the state registrar has reasonable cause to question the validity or adequacy of the applicant's sworn statements or the documentary evidence, and if the deficiencies are not corrected, the state registrar shall not amend the vital record and shall advise the applicant of the reason for this action and the applicant's right of appeal to a court of

competent jurisdiction.

5. When a certificate or report is amended pursuant to this section, the state registrar shall report the amendment to any other custodians of the vital record and their record shall be amended accordingly.

6. Upon written request of both parents and receipt of a sworn acknowledgment of paternity notarized and signed by both parents of a child born out of wedlock, the state registrar shall amend the certificate of birth to show such paternity. The acknowledgment affidavit form shall be developed by the state registrar and shall include the minimum requirements prescribed by the secretary of the Department of Health and Human Services pursuant to 42 U.S.C. Section 652(a)(7). The acknowledgment form shall include provisions to allow the parents to change the surname of the child and such surname shall be changed on the birth record if the parents elect to change the child's surname. The signature of the parents shall be notarized or the signature shall be witnessed by at least two disinterested adults whose signatures and addresses shall be plainly written thereon. The form shall be accompanied by oral notice, which may be provided through the use of video or audio equipment, and written notice to the mother and putative father of:

(1) The alternatives to, the legal consequences of, and the rights and responsibilities that arise from signing the acknowledgment;

(2) The benefits of having the child's paternity established; and

(3) The availability of paternity establishment and child

support enforcement services. A rescission of acknowledgment form shall be filed with the bureau of vital records pursuant to section 210.823 to vacate the legal finding of paternity. The bureau shall file all rescissions and forward a copy of each to the family support division [of child support enforcement]. The birth record shall only be changed pursuant to this subsection upon an order of the court or the family support division [of child support enforcement].

7. The department shall offer voluntary paternity establishment services.

8. Upon receipt of a certified copy of an order of a court of competent jurisdiction changing the name of a person born in this state and upon request of such person or such person's parents, guardian or legal representative, the state registrar shall amend the certificate of birth to show the new name.

9. Upon receipt of a certified copy of an order of a court of competent jurisdiction indicating the sex of an individual born in this state has been changed by surgical procedure and that such individual's name has been changed, the certificate of birth of such individual shall be amended.

196.1103. The management, governance, and control of moneys appropriated from the life sciences research trust fund shall be vested in the "Life Sciences Research Board" which is hereby created in the [office of administration] department of economic development as a type III [division] agency and which shall consist of seven members. The following provisions shall apply to the life sciences research board and its members:

(1) Each member shall be appointed by the governor with the

advice and consent of the senate pursuant to the procedures herein set forth for a term of four years; except that, of the initial members of the board appointed, three shall be appointed for two-year terms and four shall be appointed to four-year terms;

(2) The members of the board shall be generally familiar with the life sciences and current research trends and developments with either technical or scientific expertise in life sciences and with an understanding of the application of the results of life sciences research. The appointment of a person to the life sciences research committee created by Executive Order 01-10 issued by the governor on July 23, 2001, shall not disqualify a person from serving as a member, either contemporaneously or later, on the life sciences research board;

(3) No member of the life sciences research board shall serve more than two consecutive full four-year terms;

(4) The members of the life sciences research board shall receive no salary or other compensation for their services as a member of the board, but shall receive reimbursement for their actual and necessary expenses incurred in performance of their duties as members of the board.

197.312. A certificate of need shall not be required for any institution previously owned and operated for or in behalf of a city not within a county which chooses to be licensed as a facility defined under subdivision **[**(21) or**]** (22) or (23) of section 198.006 for a facility of ninety beds or less that is owned or operated by a not-for-profit corporation which is exempt from federal income tax as an organization described in section

501(c)(3) of the Internal Revenue Code of 1986, which is controlled directly by a religious organization and which has received approval by the **[**division of aging**]** department of health and senior services of plans for construction of such facility by August 1, 1995, and is licensed by the **[**division of aging**]** department of health and senior services by July 1, 1996, as a facility defined under subdivision **[**(21) or**]** (22) or (23) of section 198.006 or for a facility, serving exclusively mentally ill, homeless persons, of sixteen beds or less that is owned or operated by a not-for-profit corporation which is exempt from federal income tax which is described in section 501(c)(3) of the Internal Revenue Code of 1986, which is controlled directly by a religious organization and which has received approval by the **[**division of aging**]** department of health and senior services of plans for construction of such facility by May 1, 1996, and is licensed by the **[**division of aging**]** department of health and senior services by July 1, 1996, as a facility defined under subdivision **[**(21) or**]** (22) or (23) of section 198.006 or an assisted living facility located in a city not within a county operated by a not for profit corporation which is exempt from federal income tax which is described in section 501(c)(3) of the Internal Revenue Code of 1986, which is controlled directly by a religious organization and which is licensed for one hundred beds or less on or before August 28, 1997.

197.318. 1. As used in this section, the term "licensed and available" means beds which are actually in place and for which a license has been issued.

2. The committee shall review all letters of intent and

applications for long-term care hospital beds meeting the requirements described in 42 CFR, Section 412.23(e) under its criteria and standards for long-term care beds.

3. Sections 197.300 to 197.366 shall not be construed to apply to litigation pending in state court on or before April 1, 1996, in which the Missouri health facilities review committee is a defendant in an action concerning the application of sections 197.300 to 197.366 to long-term care hospital beds meeting the requirements described in 42 CFR, Section 412.23(e).

4. Notwithstanding any other provision of this chapter to the contrary:

(1) A facility licensed pursuant to chapter 198 may increase its licensed bed capacity by:

(a) Submitting a letter of intent to expand to the **[**division of aging**]** department of health and senior services and the health facilities review committee;

(b) Certification from the **[**division of aging**]** department of health and senior services that the facility:

a. Has no patient care class I deficiencies within the last eighteen months; and

b. Has maintained a ninety-percent average occupancy rate for the previous six quarters;

(c) Has made an effort to purchase beds for eighteen months following the date the letter of intent to expand is submitted pursuant to paragraph (a) of this subdivision. For purposes of this paragraph, an "effort to purchase" means a copy certified by the offeror as an offer to purchase beds from another licensed facility in the same licensure category; and

(d) If an agreement is reached by the selling and purchasing entities, the health facilities review committee shall issue a certificate of need for the expansion of the purchaser facility upon surrender of the seller's license; or

(e) If no agreement is reached by the selling and purchasing entities, the health facilities review committee shall permit an expansion for:

a. A facility with more than forty beds may expand its licensed bed capacity within the same licensure category by twenty-five percent or thirty beds, whichever is greater, if that same licensure category in such facility has experienced an average occupancy of ninety-three percent or greater over the previous six quarters;

b. A facility with fewer than forty beds may expand its licensed bed capacity within the same licensure category by twenty-five percent or ten beds, whichever is greater, if that same licensure category in such facility has experienced an average occupancy of ninety-two percent or greater over the previous six quarters;

c. A facility adding beds pursuant to subparagraphs a. or b. of this paragraph shall not expand by more than fifty percent of its then licensed bed capacity in the qualifying licensure category;

(2) Any beds sold shall, for five years from the date of relicensure by the purchaser, remain unlicensed and unused for any long-term care service in the selling facility, whether they do or do not require a license;

(3) The beds purchased shall, for two years from the date

of purchase, remain in the bed inventory attributed to the selling facility and be considered by the department of social services as licensed and available for purposes of this section;

(4) Any residential care facility licensed pursuant to chapter 198 may relocate any portion of such facility's current licensed beds to any other facility to be licensed within the same licensure category if both facilities are under the same licensure ownership or control, and are located within six miles of each other;

(5) A facility licensed pursuant to chapter 198 may transfer or sell individual long-term care licensed beds to facilities qualifying pursuant to paragraphs (a) and (b) of subdivision (1) of this subsection. Any facility which transfers or sells licensed beds shall not expand its licensed bed capacity in that licensure category for a period of five years from the date the licensure is relinquished.

5. Any existing licensed and operating health care facility offering long-term care services may replace one-half of its licensed beds at the same site or a site not more than thirty miles from its current location if, for at least the most recent four consecutive calendar quarters, the facility operates only fifty percent of its then licensed capacity with every resident residing in a private room. In such case:

(1) The facility shall report to the **[**division of aging**]** health and senior services vacant beds as unavailable for occupancy for at least the most recent four consecutive calendar quarters;

(2) The replacement beds shall be built to private room

specifications and only used for single occupancy; and

(3) The existing facility and proposed facility shall have the same owner or owners, regardless of corporate or business structure, and such owner or owners shall stipulate in writing that the existing facility beds to be replaced will not later be used to provide long-term care services. If the facility is being operated under a lease, both the lessee and the owner of the existing facility shall stipulate the same in writing.

6. Nothing in this section shall prohibit a health care facility licensed pursuant to chapter 198 from being replaced in its entirety within fifteen miles of its existing site so long as the existing facility and proposed or replacement facility have the same owner or owners regardless of corporate or business structure and the health care facility being replaced remains unlicensed and unused for any long-term care services whether they do or do not require a license from the date of licensure of the replacement facility.

197.367. Upon application for renewal by any residential care facility or assisted living facility which on the effective date of this act has been licensed for more than five years, is licensed for more than fifty beds and fails to maintain for any calendar year its occupancy level above thirty percent of its then licensed beds, the **[**division of aging**]** <u>department of health and senior services</u> shall license only fifty beds for such facility.

198.018. 1. Applications for a license shall be made to the department by the operator upon such forms and including such information and documents as the department may reasonably

require by rule or regulation for the purposes of administering sections 198.003 to 198.186, section 198.200, and sections 208.030 and 208.159.

2. The applicant shall submit all documents required by the department under this section attesting by signature that the statements contained in the application are true and correct to the best of the applicant's knowledge and belief, and that all required documents are either included with the application or are currently on file with the department.

3. The application shall be accompanied by a license fee in an amount established by the department. The fee established by the department shall not exceed six hundred dollars, and shall be a graduated fee based on the licensed capacity of the applicant and the duration of the license. A fee of not more than fifty dollars shall be charged for any amendments to a license initiated by an applicant. In addition, facilities certified to participate in the Medicaid or Medicare programs shall pay a certification fee of up to one thousand dollars annually, payable on or before October first of each year. The amount remitted for the license fee, fee for amendments to a license, or certification fee shall be deposited in the state treasury to the credit of the "Nursing Facility Quality of Care Fund", which is hereby created. All investment earnings of the nursing facility quality of care fund shall be credited to such fund. All moneys in the nursing facility quality of care fund shall, upon appropriation, be used by the **[**division of aging**]** <u>department of health and senior services</u> for conducting inspections and surveys, and providing training and technical assistance to

facilities licensed under the provisions of this chapter. The unexpended balance in the nursing facility quality of care fund at the end of the biennium is exempt from the provisions of sections 33.080. The unexpended balance in the nursing facility quality of care fund shall not revert to the general revenue fund, but shall accumulate in the nursing facility quality of care fund from year to year.

4. Within ten working days of the effective date of any document that replaces, succeeds, or amends any of the documents required by the department to be filed pursuant to this section, an operator shall file with the department a copy of such document. The operator shall attest by signature that the document is true and correct. If the operator knowingly fails to file a required document or provide any information amending any document within the time provided for in this section, a circuit court may, upon application of the department or the attorney general, assess a penalty of up to fifty dollars per document for each day past the required date of filing.

5. If an operator fails to file documents or amendments to documents as required pursuant to this section and such failure is part of a pattern or practice of concealment, such failure shall be sufficient grounds for revocation of a license or disapproval of an application for a license.

6. Any facility defined in subdivision **[**(8), (15), (16) or (17)**]** <u>(6), (14), (22), or (23)</u> of section 198.006 that is licensed by the state of Missouri pursuant to the provisions of section 198.015 may not be licensed, certified or registered by any other political subdivision of the state of Missouri whether

or not it has taxing power, provided, however, that nothing in this subsection shall prohibit a county or city, otherwise empowered under law, to inspect such facility for compliance with local ordinances of food service or fire safety.

198.026. 1. Whenever a duly authorized representative of the department finds upon an inspection of a facility that it is not in compliance with the provisions of sections 198.003 to 198.096 and the standards established thereunder, the operator or administrator shall be informed of the deficiencies in an exit interview conducted with the operator or administrator, or his or her designee. The department shall inform the operator or administrator, in writing, of any violation of a class I standard at the time the determination is made. A written report shall be prepared of any deficiency for which there has not been prompt remedial action, and a copy of such report and a written correction order shall be sent to the operator or administrator by certified mail or other delivery service that provides a dated receipt of delivery at the facility address within ten working days after the inspection, stating separately each deficiency and the specific statute or regulation violated.

2. The operator or administrator shall have five working days following receipt of a written report and correction order regarding a violation of a class I standard and ten working days following receipt of the report and correction order regarding violations of class II or class III standards to request any conference and to submit a plan of correction for the department's approval which contains specific dates for achieving compliance. Within five working days after receiving a plan of

correction regarding a violation of a class I standard and within ten working days after receiving a plan of correction regarding a violation of a class II or III standard, the department shall give its written approval or rejection of the plan. If there was a violation of any class I standard, immediate corrective action shall be taken by the operator or administrator and a written plan of correction shall be submitted to the department. The department shall give its written approval or rejection of the plan and if the plan is acceptable, a reinspection shall be conducted within twenty calendar days of the exit interview to determine if deficiencies have been corrected. If there was a violation of any class II standard and the plan of correction is acceptable, an unannounced reinspection shall be conducted between forty and ninety calendar days from the date of the exit conference to determine the status of all previously cited deficiencies. If there was a violation of class III standards sufficient to establish that the facility was not in substantial compliance, an unannounced reinspection shall be conducted within one hundred twenty days of the exit interview to determine the status of previously identified deficiencies.

3. If, following the reinspection, the facility is found not in substantial compliance with sections 198.003 to 198.096 and the standards established thereunder or the operator is not correcting the noncompliance in accordance with the approved plan of correction, the department shall issue a notice of noncompliance, which shall be sent by certified mail or other delivery service that provides a dated receipt of delivery to each person disclosed to be an owner or operator of the facility,

according to the most recent information or documents on file with the department.

4. The notice of noncompliance shall inform the operator or administrator that the department may seek the imposition of any of the sanctions and remedies provided for in section 198.067, or any other action authorized by law.

5. At any time after an inspection is conducted, the operator may choose to enter into a consent agreement with the department to obtain a probationary license. The consent agreement shall include a provision that the operator will voluntarily surrender the license if substantial compliance is not reached in accordance with the terms and deadlines established under the agreement. The agreement shall specify the stages, actions and time span to achieve substantial compliance.

6. Whenever a notice of noncompliance has been issued, the operator shall post a copy of the notice of noncompliance and a copy of the most recent inspection report in a conspicuous location in the facility, and the department shall send a copy of the notice of noncompliance to the **[**division of family services of the**]** department of social services, the department of mental health, and any other concerned federal, state or local governmental agencies.

198.029. The provisions of section 198.026 notwithstanding, whenever a duly authorized representative of the department finds upon inspection of a licensed facility, and the director of the department finds upon review, that the facility or the operator is not in substantial compliance with a standard or standards the violations of which would present either an imminent danger to

the health, safety or welfare of any resident or a substantial probability that death or serious physical harm would result and which is not immediately corrected, the department shall:

(1) Give immediate written notice of the noncompliance to the operator, administrator or person managing or supervising the conduct of the facility at the time the noncompliance is found;

(2) Make public the fact that a notice of noncompliance has been issued to the facility. Copies of the notice shall be sent to appropriate hospitals and social service agencies;

(3) Send a copy of the notice of noncompliance to the **[**division of family services of the**]** department of social services, the department of mental health, and any other concerned federal, state or local government agencies. The facility shall post in a conspicuous location in the facility a copy of the notice of noncompliance and a copy of the most recent inspection report.

198.077. For any residential care facility, assisted living facility, intermediate care facility or skilled nursing facility, if the department of **[**social**]** health and senior services maintains records of site inspections and violations of statutes, rules, or the terms or conditions of any license issued to such facility, the department shall also maintain records of compliance with such statutes, rules, or terms or conditions of any license, and shall specifically record in such records any actions taken by the facility that are above and beyond what is minimally required for compliance.

198.080. The **[**division of aging**]** department of health and senior services shall develop flexible assessment procedures for

individuals in long-term care and those considering long-term care services which follow the individual through the continuum of care, including periodic reassessment. By January 1, 2002, the **[**division of aging**]** department of health and senior services shall promulgate rules and regulations to implement the new assessment system and shall make a report to the appropriate house and senate committees of the general assembly regarding the new assessment system. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

198.087. To ensure uniformity of application of regulation standards in long-term care facilities throughout the state, the department of **[**social**]** health and senior services shall:

(1) Evaluate the requirements for inspectors or surveyors of facilities, including the eligibility, training and testing requirements for the position. Based on the evaluation, the department shall develop and implement additional training and knowledge standards for inspectors and surveyors;

(2) Periodically evaluate the performance of the inspectors or surveyors regionally and statewide to identify any deviations

or inconsistencies in regulation application. At a minimum, the Missouri on-site surveyor evaluation process, and the number and type of actions overturned by the informal dispute resolution process and formal appeal shall be used in the evaluation. Based on such evaluation, the department shall develop standards and a retraining process for the region, state, or individual inspector or surveyor, as needed;

(3) In addition to the provisions of subdivisions (1) and (2) of this section, the department shall develop a single uniform comprehensive and mandatory course of instruction for inspectors/surveyors on the practical application of enforcement of statutes, rules and regulations. Such course shall also be open to attendance by administrators and staff of facilities licensed pursuant to this chapter;

(4) **[**With the full cooperation of and in conjunction with the department of health and senior services,**]** Evaluate the implementation and compliance of the provisions of subdivision (3) of subsection 1 of section 198.012 in which rules, requirements, regulations and standards pursuant to section 197.080 for assisted living facilities, intermediate care facilities and skilled nursing facilities attached to an acute care hospital are consistent with the intent of this chapter; and

(5) **[**With the full cooperation and in conjunction with the department of health and senior services,**]** Develop rules and regulations requiring the exchange of information, including regulatory violations, between the **[**departments**]** <u>department and the department of social services</u> to ensure the protection of individuals who are served by health care providers regulated by

either the department [of health and senior services or the department of social services].

198.090. 1. An operator may make available to any resident the service of holding in trust personal possessions and funds of the resident and shall, as authorized by the resident, expend the funds to meet the resident's personal needs. In providing this service the operator shall:

(1) At the time of admission, provide each resident or [his] such resident's next of kin or legal guardian with a written statement explaining the resident's rights regarding personal funds;

(2) Accept funds and personal possessions from or for a resident for safekeeping and management, only upon written authorization by the resident or by [his] such resident's designee, or guardian in the case of an adjudged incompetent;

(3) Deposit any personal funds received from or on behalf of a resident in an account separate from the facility's funds, except that an amount to be established by rule of the [division of aging] department of health and senior services may be kept in a petty cash fund for the resident's personal needs;

(4) Keep a written account, available to a resident and [his] such resident's designee or guardian, maintained on a current basis for each resident, with written receipts, for all personal possessions and funds received by or deposited with the facility and for all disbursements made to or on behalf of the resident;

(5) Provide each resident or [his] such resident's designee or guardian with a quarterly accounting of all financial

transactions made on behalf of the resident;

(6) Within five days of the discharge of a resident, provide the resident, or **[**his**]** such resident's designee or guardian, with an up-to-date accounting of the resident's personal funds and return to the resident the balance of his or her funds and all his or her personal possessions;

(7) Upon the death of a resident who has been a recipient of aid, assistance, care, services, or who has had moneys expended on **[**his**]** such resident's behalf by the department of social services, provide the department a complete account of all the resident's personal funds within sixty days from the date of death. The total amount paid to the decedent or expended upon **[**his**]** such decedent's behalf by the department shall be a debt due the state and recovered from the available funds upon the department's claim on such funds. The department shall make a claim on the funds within sixty days from the date of the accounting of the funds by the facility. The nursing facility shall pay the claim made by the department of social services from the resident's personal funds within sixty days. Where the name and address are reasonably ascertainable, the department of social services shall give notice of the debt due the state to the person whom the recipient had designated to receive the quarterly accounting of all financial transactions made under this section, or the resident's guardian or conservator or the person or persons listed in nursing home records as a responsible party or the fiduciary of the resident's estate. If any funds are available after the department's claim, the remaining provisions of this section shall apply to the balance, unless the

funds belonged to a person other than the resident, in which case the funds shall be paid to that person;

(8) Upon the death of a resident who has not been a recipient of aid, assistance, care, services, or who has not had moneys expended on **[**his**]** such resident's behalf by the department of social services or the department has not made a claim on the funds, provide the fiduciary of resident's estate, at the fiduciary's request, a complete account of all the resident's personal funds and possessions and deliver to the fiduciary all possessions of the resident and the balance of the resident's funds. If, after one year from the date of death, no fiduciary makes claim upon such funds or possessions, the operator shall notify the department that the funds remain unclaimed. Such unclaimed funds or possessions shall be disposed of as follows:

(a) If the unclaimed funds or possessions have a value totaling one hundred and fifty dollars or less, the funds or the proceeds of the sale of the possessions may be deposited in a fund to be used for the benefit of all residents of the facility by providing the residents social or educational activities. The facility shall keep an accounting of the acquisitions and expenditure of these funds; or

(b) If the unclaimed funds or possessions have a value greater than one hundred and fifty dollars, the funds or possessions shall be immediately presumed to be abandoned property under sections 447.500 to 447.585 and the procedures provided for in those sections shall apply notwithstanding any other provisions of those sections which require a period greater than two years for a presumption of abandonment;

(9) Upon ceasing to be the operator of a facility, all funds and property held in trust pursuant to this section shall be transferred to the new operator in accordance with sound accounting principles, and a closeout report signed by both the outgoing operator and the successor operator shall be prepared. The closeout report shall include a list of current balances of all funds held for residents respectively and an inventory of all property held for residents respectively. If the outgoing operator refuses to sign the closeout report, **[**he**]** such operator shall state in writing the specific reasons for his or her failure to so sign, and the successor operator shall complete the report and attach an affidavit stating that the information contained therein is true to the best of his or her knowledge and belief. Such report shall be retained with all other records and accounts required to be maintained under this section;

(10) Not be required to invest any funds received from or on behalf of a resident, nor to increase the principal of any such funds.

2. Any owner, operator, manager, employee, or affiliate of an owner or operator who receives any personal property or anything else of value from a resident, shall, if the thing received has a value of ten dollars or more, make a written statement giving the date it was received, from whom it was received, and its estimated value. Statements required to be made pursuant to this subsection shall be retained by the operator and shall be made available for inspection by the department, or by the department of mental health when the resident has been placed by that department, and by the resident,

and [his] such resident's designee or legal guardian. Any person who fails to make a statement required by this subsection is guilty of a class C misdemeanor.

3. No owner, operator, manager, employee, or affiliate of an owner or operator shall in one calendar year receive any personal property or anything else of value from the residents of any facility which have a total estimated value in excess of one hundred dollars.

4. Subsections 2 and 3 of this section shall not apply if the property or other thing of value is held in trust in accordance with subsection 1 of this section, is received in payment for services rendered or pursuant to the terms of a lawful contract, or is received from a resident who is related to the recipient within the fourth degree of consanguinity or affinity.

5. Any operator who fails to maintain records or who fails to maintain any resident's personal funds in an account separate from the facility's funds as required by this section shall be guilty of a class C misdemeanor.

6. Any operator, or any affiliate or employee of an operator, who puts to his or her own use or the use of the facility or otherwise diverts from the resident's use any personal funds of the resident shall be guilty of a class A misdemeanor.

7. Any person having reasonable cause to believe that a misappropriation of a resident's funds or property has occurred may report such information to the department.

8. For each report the division shall attempt to obtain the

name and address of the facility, the name of the facility employee, the name of the resident, information regarding the nature of the misappropriation, the name of the complainant, and any other information which might be helpful in an investigation.

9. Upon receipt of a report, the department shall initiate an investigation.

10. If the investigation indicates probable misappropriation of property or funds of a resident, the investigator shall refer the complaint together with his or her report to the department director or **[**his**]** the director's designee for appropriate action.

11. Reports shall be confidential, as provided under section **[**660.320**]** 192.1112.

12. Anyone, except any person participating in or benefitting from the misappropriation of funds, who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from the report shall be immune from any civil or criminal liability for making such a report or for testifying except for liability for perjury, unless such person acted negligently, recklessly, in bad faith, or with malicious purpose.

13. Within five working days after a report required to be made under this section is received, the person making the report shall be notified in writing of its receipt and of the initiation of the investigation.

14. No person who directs or exercises any authority in a facility shall evict, harass, dismiss or retaliate against a resident or employee because he or she or any member of his or

her family has made a report of any violation or suspected violation of laws, ordinances or regulations applying to the facility which he or she has reasonable cause to believe has been committed or has occurred.

15. The department shall maintain the employee disqualification list and place on the employee disqualification list the names of any persons who have been finally determined by the department, pursuant to section **[**660.315**]** 192.1108, to have misappropriated any property or funds of a resident while employed in any facility.

198.189. The department of social services, MO HealthNet division **[**of medical services**]**, and the department of health and senior services, division of senior and disability services shall work together to implement a new Medicaid payment system for assisted living facilities defined in section 198.006. The departments shall look at possible options including but not limited to federal Medicaid waivers, state plan amendments, and provisions of the federal Deficit Reduction Act of 2005 that will allow a tiered rate system via a bundled monthly rate for all services not included in the room and board function of the facility, including but not limited to: adult day care/socialization activities, escort services, essential shopping, health maintenance activities, housekeeping activities, meal preparation, laundry services, medication assistance (set-up and administration), personal care services, assistance with activities of daily living and instrumental activities of daily living, transportation services, nursing supervision, health promotion and exercise programming, emergency call systems,

incontinence supplies, and companion services. The amount of the personal funds allowance for the Medicaid recipient residing in an assisted living facility shall include enough money for over-the-counter medications and co-payments for Medicaid and Medicare Part D services. The departments shall work with assisted living facility provider groups in developing this new payment system. The department of social services shall submit all necessary applications for implementing this new system singularly or within a multiservice state Medicaid waiver application to the secretary of the federal Department of Health and Human Services by July 1, 2007.

198.421. 1. A nursing facility reimbursement allowance period as provided in sections 198.401 to 198.436 shall be from the first day of October to the thirtieth day of September. The department shall notify each nursing facility with a balance due on the thirtieth day of September of each year the amount of such balance due. If any nursing home fails to pay its nursing facility reimbursement allowance within thirty days of such notice, the reimbursement allowance shall be delinquent. The reimbursement allowance may remain unpaid during an appeal or as allowed in section 198.412.

2. Except as otherwise provided in this section, if any reimbursement allowance imposed under the provision of section 198.401 for a previous reimbursement allowance period is unpaid and delinquent, the department of social services may proceed to enforce the state's lien against the property of the nursing facility and to compel the payment of such reimbursement allowance in the circuit court having jurisdiction in the county

where the nursing facility is located. In addition, the director of the department of social services or the director's designee may cancel or refuse to issue, extend or reinstate a Medicaid provider agreement to any nursing facility which fails to pay such delinquent reimbursement allowance required by section 198.401 unless under appeal as allowed in section 198.412.

3. Except as otherwise provided in this section, failure to pay a delinquent reimbursement allowance imposed under section 198.401 shall be grounds for denial, suspension or revocation of a license granted under this chapter. The director of the department of **[**social**]** health and senior services may deny, suspend or revoke the license of any nursing facility which fails to pay a delinquent reimbursement allowance unless under appeal as allowed in section 198.412.

198.428. If the family support division **[**of family services**]** is unable to make a determination regarding Medicaid eligibility for a resident within sixty days of the submission of a completed application for medical assistance for nursing facility services, the patient shall be Medicaid eligible until the application is approved or denied. However, in no event shall benefits be construed to commence prior to the date of application.

198.510. 1. Any facility which offers to provide or provides care for persons with Alzheimer's disease by means of an Alzheimer's special care unit or Alzheimer's special care program shall be required to disclose the form of care or treatment provided that distinguishes that unit or program as being especially applicable, or suitable for persons with Alzheimer's

or dementia. The disclosure shall be made to the department which licenses the facility, agency or center giving the special care. At the time of admission of a patient requiring treatment rendered by the Alzheimer's special care program, a copy of the disclosure made to the department shall be delivered by the facility to the patient and the patient's next of kin, designee, or guardian. The licensing department shall examine all such disclosures in the department's records and verify the information on the disclosure for accuracy as part of the facility's regular license renewal procedure.

2. The **[**department of social services and the**]** department of health and senior services shall develop a single disclosure form to be completed by the facility, agency or center giving the special care. The information required to be disclosed by subsection 1 of this section on this form shall include, if applicable, an explanation of how the care is different from the rest of the facility in the following areas:

(1) The Alzheimer's special care unit's or program's written statement of its overall philosophy and mission which reflects the need of residents afflicted with dementia;

(2) The process and criteria for placement in, transfer or discharge from, the unit or program;

(3) The process used for assessment and establishment of the plan of care and its implementation, including the method by which the plan of care evolves and is responsive to changes in condition;

(4) Staff training and continuing education practices;

(5) The physical environment and design features

appropriate to support the functioning of cognitively impaired adult residents;

(6) The frequency and types of resident activities;

(7) The involvement of families and the availability of family support programs;

(8) The costs of care and any additional fees; and

(9) Safety and security measures.

198.515. Any facility which offers to provide or provides care for persons with Alzheimer's disease by means of an Alzheimer's special care unit or Alzheimer's special care program shall be required to provide an informational document developed by or approved by the **[**division of aging**]** department of health and senior services. The document shall include but is not limited to updated information on selecting an Alzheimer's special care unit or Alzheimer's special care program. The document shall be given to any person seeking information about or placement in an Alzheimer's special care unit or Alzheimer's special care program. The distribution of this document shall be verified by the licensing department as part of the facility's regular license renewal procedure.

205.960. The family support division of **[**family services**]** the department of social services by itself, or upon the application of the county commission, or the governing body of any county or city not within a county, may establish and put into effect in any county or any city not within a county a program for the distribution of federally donated commodities or for the sale and issuance of federal food stamps or coupons to needy persons and participating families pursuant to any act of

Congress of the United States; and may execute agreements necessary to maintain the eligibility of this state to receive surplus food commodities and to distribute federal food stamps or coupons, including agreements with banking corporations, counties and other agencies of this state, in carrying into effect the provisions of sections 205.960 to 205.966. Payment of the expenses of any program instituted under sections 205.960 to 205.966 shall be made pursuant to those sections only during the times when federal and state funds are provided and made available for such purposes.

205.961. The family support division **[**of family services**]** shall make and promulgate necessary and reasonable rules and regulations for the administration of the programs established pursuant to section 205.960, and when required by federal law or regulation the family support division **[**of family services**]** shall be the certifying agency responsible for certifying individuals or households as eligible to receive surplus agricultural commodities or for the issuance of federal food stamps.

205.962. 1. The family support division **[**of family services**]** shall enter into a written agreement with the county commission or governing body of any county which desires to participate in a program for the distribution of agricultural commodities within such county. Any agreement shall cover the responsibility of the parties thereto for the administration of the program and shall contain such terms and conditions as are required by regulations prescribed under federal laws governing distribution of such commodities as well as regulations of the family support division **[**of family services**]**. No county

commission or governing body of a county shall participate in the administration of such program unless it has an agreement with the family support division [of family services] under this section. Expenses incurred in connection with a federally donated agricultural commodities food distribution program, including sums expended for the acquisition, warehousing, cold storage, safekeeping, maintenance of proper records and distribution of surplus agricultural commodities shall be paid by the county and family support division [of family services] in pursuance of the agreement entered into under this section or, in the absence of such agreement, by the family support division [of family services]. A county commission which has an agreement for distributing food commodities with the family support division [of family services] shall not be required to pay over fifteen percent of the total distribution costs in its county.

2. For the payment of expenses incurred in connection with the sale and distribution of federal food stamps in any county the family support division [of family services] may enter into agreements with banking corporations and with the county for the purpose of establishing and maintaining a food stamp distribution program in the county, and may accept moneys, services or quarters as a contribution toward the support and maintenance of such program. Any funds so received shall be payable to the director of revenue and deposited in the proper special account in the state treasury and become and be a part of the state funds appropriated for the use of the family support division [of family services].

205.964. Any loss for which this state or its agencies or

counties may be liable to reimburse the federal government in accordance with federal laws, rules and regulations applicable to federal food stamp plans or federal surplus agricultural commodities distribution programs shall be paid from funds appropriated to the family support division **[**of family services**]** for the administration of these programs. Any loss in a county in which a program of surplus agricultural commodities distribution is in effect, and with respect to which loss is incurred, shall be paid by the county to the family support division **[**of family services**]** in the amount payable to the federal government under this section. The payment for any loss by the state or county shall not relieve any person of any civil or criminal liability to this state.

205.965. 1. Counties, state agencies, issuing agencies, retail food outlets, wholesale food concerns, banks and all persons who participate in or administer any part of the distribution program of surplus agricultural commodities or a food stamp plan shall comply with all state and federal laws, rules and regulations applicable to such program or plans and shall be subject to inspection and audit by the family support division **[**of family services**]** with respect to the operation of the program or plan.

2. To the extent authorized by federal law, all food stamp vendors shall be approved and licensed by the family support division **[**of family services**]**. The division may promulgate rules and regulations necessary to administer the provisions of this section. The division shall set the amount of the fees for licensing food stamp vendors at a level to produce revenue which

shall not substantially exceed the cost and expense of administering the provisions of this section. An action may be brought by the department to temporarily or permanently enjoin or restrain any violation of this subsection or the regulations applicable thereto. Any action brought under the provisions of this subsection shall be heard by the court within no more than twenty days after the action has been filed and service made upon the vendor. Any person who in any way conducts business as a food stamp vendor without approval and license by the family support division **[**of family services**]** shall be guilty of a class A misdemeanor. A second offense within five years after the first conviction shall be a class D felony.

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

207.010. The **[**division of family services is**]** children's division, family support division, MO HealthNet division, Missouri Medicaid audit and compliance unit, division of youth services, division of legal services, division of finance and administrative services, and the state technical support team are an integral part of the department of social services and shall have and exercise all the powers and duties necessary to carry out fully and effectively the purposes assigned to **[**it**]** them by the director of the department of social services and by law and the department of social services shall be the state agency to:

(1) Administer state plans and laws involving aid to dependent children;

(2) Aid or relief in case of public calamity;

(3) Aid for direct relief;

(4) Child welfare services;

(5) Social services to families and adults;

(6) Pensions and services for the blind; and

(7) Any other duties relating to public assistance and social services which may be imposed upon the department of social services.

207.020. 1. In addition to the powers, duties and functions vested in the children's division **[**of family services**]** by other provisions of this chapter or by other laws of this state, the division **[**of family services**]** shall have the power:

(1) To sue and be sued;

(2) To make contracts and carry out the duties imposed upon it by this or any other law;

(3) To administer, disburse, dispose of and account for funds, commodities, equipment, supplies or services, and any kind of property given, granted, loaned, advanced to or appropriated by the state of Missouri for any of the purposes herein;

(4) To administer oaths, issue subpoenas for witnesses, examine such witnesses under oath, and make and keep a record of same;

(5) To adopt, amend and repeal rules and regulations necessary or desirable to carry out the provisions of this chapter and which are not inconsistent with the constitution or laws of this state;

(6) To cooperate with the United States government in matters of mutual concern pertaining to any duties wherein the children's division **[**of family services**]** is acting as a state

agency, including the adoption of such methods of administration as are found by the United States government to be necessary for the efficient operation of state plans hereunder;

(7) To make such reports in such form and containing such information as the United States government may, from time to time, require, and comply with such provisions as the United States government may, from time to time, find necessary to assure the correctness and verification of such reports;

(8) To establish, extend and strengthen child welfare services for the protection and care of homeless, dependent and neglected children and children in danger of becoming delinquent;

(9) To expend child welfare service funds for payment of part of the cost of district, county or other local child welfare services;

(10) To administer state child welfare activities and develop state services for the encouragement and assistance of adequate methods of community child welfare organizations;

(11) To appoint, when and if it may deem necessary, advisory committees to provide professional or technical consultation in respect to welfare problems and welfare administration. The members of such advisory committees shall receive no compensation for their services other than expenses actually incurred in the performance of their official duties. The number of members of each such advisory committee shall be determined by the children's division **[**of family services**]**, and such advisory committees shall consult with and advise the children's division **[**of family services**]** in respect to problems and policies incident to the administration of the particular

function germane to the respective field of competence;

(12) To initiate or cooperate with other agencies in developing measures for the prevention of dependency and the rehabilitation of **[**needy persons**]** children;

(13) To collect statistics, make special fact-finding studies and publish reports in reference to **[**public welfare**]** its duties;

(14) To establish or cooperate in research or demonstration projects relative to the welfare program, such as those relating to the prevention and reduction of dependency and economic distress, or which will aid in effecting coordination of planning between private and public welfare agencies, or which will help improve the administration and effectiveness of programs carried on or assisted under the federal Social Security Act and the programs related thereto;

(15) To provide appropriate public welfare services to promote, safeguard and protect the social well-being and general welfare of children and to help maintain and strengthen family life, and to provide such public welfare services to aid **[**needy persons who can be so helped to become self-supporting or capable of self-care**]** children and their families as may be authorized by law;

(16) Upon request, to cooperate with the juvenile court and furnish social studies and reports to the court with respect to children as to whom adoption, abuse, or neglect petitions have been filed;

(17) To accept for social services and care, homeless, dependent or neglected children in all counties where legal

custody is vested in the children's division [of family services] by the juvenile court where the juvenile court has acquired jurisdiction pursuant to subdivision (1) or (2) of subsection 1 of section 211.031; provided that prior to legal custody being vested in the children's division [of family services], the children's division [of family services] shall conduct an evaluation of the child, examine the child and investigate all pertinent circumstances of his or her background for the purpose of determining appropriate services and a treatment plan for the child. This evaluation shall involve local division staff and consultation with the juvenile officer or [his] such officer's designee, appropriate state agencies, including but not limited to the department of mental health and the department of elementary and secondary education, or private practitioners who are knowledgeable of the child or programs or services appropriate to the needs of the child and shall be completed within thirty days. Temporary custody may be placed with the children's division [of family services] while the evaluation is being conducted. A report of such proceedings and findings shall be submitted in writing to the appropriate court:

(a) The children's division may, at any time, if it finds the child placed in its custody is in need of care or treatment other than that which it can provide, apply to the court which placed such child for an order relieving it of custody of such child. The court must make a determination within ten days and the court shall be vested with full power to make such disposition of the child as is authorized by law, including continued custody;

(b) However, no payments for care shall be made:

a. To facilities with which the children's division **[**of family services**]** has no contract to provide such care, or to facilities in the state of Missouri which are not licensed by the state of Missouri unless exempt from such licensure;

b. To any facility outside the state of Missouri unless the children's division **[**of family services**]** determines that there is no facility in the state of Missouri which can provide substantially equivalent care, except that this limitation shall not apply to any facility outside the state of Missouri if that facility is the closest available facility to the child's home or the children's division **[**of family services**]** determines that such placement is in the child's best interest; nor

c. To any facility outside the state of Missouri which is not licensed or exempted from licensure by the state in which it is located, or which cannot document that it meets requirements which would be necessary for licensure in the state of Missouri. The term "care" shall include room, board, clothing, medical care, dental care, social services and incidentals;

(18) To accept gifts and grants of any property, real or personal, and to sell said property and expend such gifts or grants not inconsistent with the administration of this chapter and within the limitations imposed by the donor thereof;

(19) To make periodic surveys of cost-of-living factors in relation to the **[**needs of recipients of public assistance**]** duties and responsibilities of the division, and establish standards or budgetary guides for determining minimum costs of meeting such requirements, and amend such standards from time to time as

circumstances may require.

2. All powers and duties of the children's division [of family services] shall, so far as applicable, apply to the administration of any other law or state law wherein duties are imposed upon the children's division [of family services] acting as a state agency.

207.022. 1. In addition to the powers, duties and functions vested in the family support division by other provisions of this chapter or by other laws of this state, the family support division shall have the power:

(1) To sue and be sued;

(2) To make contracts and carry out the duties imposed upon it by this or any other law;

(3) To administer, disburse, dispose of and account for funds, commodities, equipment, supplies or services, and any kind of property given, granted, loaned, advanced to or appropriated by the state of Missouri for any of the purposes herein;

(4) To administer oaths, issue subpoenas for witnesses, examine such witnesses under oath, and make and keep a record of same;

(5) To adopt, amend and repeal rules and regulations necessary or desirable to carry out the provisions of this chapter and which are not inconsistent with the constitution or laws of this state;

(6) To cooperate with the United States government in matters of mutual concern pertaining to any duties wherein the family support division is acting as a state agency, including the adoption of such methods of administration as are found by

the United States government to be necessary for the efficient operation of state plans hereunder;

(7) To make such reports in such form and containing such information as the United States government may, from time to time, require, and comply with such provisions as the United States government may, from time to time, find necessary to assure the correctness and verification of such reports;

(8) To appoint, when and if it may deem necessary, advisory committees to provide professional or technical consultation in respect to welfare problems and welfare administration. The members of such advisory committees shall receive no compensation for their services other than expenses actually incurred in the performance of their official duties. The number of members of each such advisory committee shall be determined by the family support division and such advisory committees shall consult with and advise the family support division in respect to problems and policies incident to the administration of the particular function germane to the respective field of competence;

(9) To initiate or cooperate with other agencies in developing measures for the prevention of dependency and the rehabilitation of needy persons;

(10) To collect statistics, make special fact-finding studies and publish reports in reference to public welfare;

(11) To establish or cooperate in research or demonstration projects relative to the welfare program, such as those relating to the prevention and reduction of dependency and economic distress, or which will aid in effecting coordination of planning between private and public welfare agencies, or which will help

improve the administration and effectiveness of programs carried on or assisted under the federal Social Security Act and the programs related thereto;

(12) To provide appropriate public welfare services to promote, safeguard and protect the social well-being and general welfare of children and to help maintain and strengthen family life, and to provide such public welfare services to aid needy persons who can be so helped to become self-supporting or capable of self-care;

(13) To accept gifts and grants of any property, real or personal, and to sell said property and expend such gifts or grants not inconsistent with the administration of this chapter and within the limitations imposed by the donor thereof;

(14) To make periodic surveys of cost-of-living factors in relation to the needs of recipients of public assistance, and establish standards or budgetary guides for determining minimum costs of meeting such requirements, and amend such standards from time to time as circumstances may require;

(15) To accept gifts and grants of any property, real or personal, and to sell said property and expend such gifts or grants not inconsistent with the administration of this chapter and within the limitations imposed by the donor thereof.

2. All powers and duties of the family support division shall, so far as applicable, apply to the administration of any other law or state law wherein duties are imposed upon the family support division acting as a state agency.

207.030. The **[**chief administrative officer of the division of family services shall be a director of family services, who

shall be a person] directors of the family support division and children's division shall be persons qualified by education and experience to supervise the work of [the division of family services] such divisions and shall be [a citizen and taxpayer] citizens and taxpayers of Missouri. Before entering upon his or her duties [the], each director shall subscribe an oath or affirmation to support the Constitution of the United States and of the state of Missouri and to faithfully demean himself or herself in office. [He] Each director shall enter into good and sufficient bond, payable to the state of Missouri, conditioned upon the faithful discharge and performance of official duties, and upon accountability for all property and funds coming under [his] such director's administration and control, said bond to be approved by the attorney general as to form, and by the governor as to its sufficiency, the premium on said bond to be paid by the state. The governor may remove the director of the children's division [of family services] and the director of the family support division for incompetence, misconduct, or neglect of duty.

207.070. 1. The [division of family services in the] department of social services is hereby authorized to elect, under the provisions of section 287.030, to come under the provisions of chapter 287, governing workers' compensation, and such law is hereby extended to include all employees of the [division of family services] department under any contract of hire, express or implied, oral or written, or under any appointment or election. The state of Missouri shall be a self-insurer and assume all liability imposed by chapter 287, in

respect to the [division of family services] department employees without insurance. The attorney general shall appear on behalf of and defend the state in all actions, when the state is a self-insurer, brought by employees of the [division of family services] department referred to herein under the provisions of the workers' compensation law.

2. Any persons assigned to perform work on welfare work projects initiated or sponsored by any state agency in carrying out a cooperative agreement with the United States government under the Federal Economic Opportunity Act of 1964, or any amendment thereto, shall be deemed to be employees of the [division of family] department of social services only for the purpose of affording such employees workers' compensation coverage under chapter 287. The workers' compensation coverage may be provided by the purchase of insurance or by the deposit in the commissioner of administration's office of a fund from which workers' compensation benefits to such employees shall be paid. Purchase of the insurance or the deposit of a fund shall be made only from funds granted by the federal government.

3. The [division of family] department of social services shall adopt rules classifying the employees mentioned herein who may be eligible for compensation under this section, and its classification shall be decisive as to whether or not an employee falls within the definition of an employee eligible for workers' compensation coverage under this section.

4. The director of the [division of family] department of social services is authorized to perform such duties as may be necessary to carry out effectively the purposes of this section.

207.080. The extension of chapter 287 to include employees of the [division of family] department of social services shall not be construed as acknowledging or creating any liability in tort, or as incurring other obligations or duties except only the duty and obligation of complying with the provisions of chapter 287 so long as the [division of family services] department may elect to remain under the provisions of chapter 287.

208.015. 1. The family support division [of family services] shall grant general relief benefits to those persons determined to be eligible under this chapter and the applicable rules of the division. The director may adopt such additional requirements for eligibility for general relief, not inconsistent with this chapter, which [he] the director deems appropriate.

2. General relief shall not be granted to any person:

(1) Who has been approved for federal supplemental security income and was not on the general relief rolls in December, 1973; or

(2) Who is a recipient of:

(a) Aid to families with dependent children benefits;

(b) Aid to the blind benefits;

(c) Blind pension benefits; or

(d) Supplemental aid to the blind benefits.

3. A person shall not be considered unemployable, under this section, if unemployability is due to school attendance.

4. Persons receiving general relief in December, 1973, and who qualify for supplemental security income shall continue to receive a general relief grant if necessary to prevent a reduction in the total cash income received by such person in

December, 1973, which general relief grant shall not exceed the amount of general relief provided by law.

5. In providing benefits to persons applying for or receiving general relief, benefits shall not be provided to any member of a household if the claimant is employable as defined by rule of the family support division [of family services]; or if certain specified relatives living in the household of the claimant are employed and have income sufficient to support themselves and their legal dependents and to meet the needs of the claimant as defined by rule of the division. "Specified relatives" shall be defined as the spouse, mother, father, sister, brother, son, daughter, and grandparents of the claimant, as well as the spouses of these relatives, if living in the home.

6. General relief paid to an unemployable person shall not exceed one hundred dollars a month.

208.030. 1. The family support division [of family services] shall make monthly payments to each person who was a recipient of old age assistance, aid to the permanently and totally disabled, and aid to the blind and who:

(1) Received such assistance payments from the state of Missouri for the month of December, 1973, to which they were legally entitled; and

(2) Is a resident of Missouri.

2. The amount of supplemental payment made to persons who meet the eligibility requirements for and receive federal supplemental security income payments shall be in an amount, as established by rule and regulation of the family support division [of family services], sufficient to, when added to all other

income, equal the amount of cash income received in December, 1973; except, in establishing the amount of the supplemental payments, there shall be disregarded cost-of-living increases provided for in Titles II and XVI of the federal Social Security Act and any benefits or income required to be disregarded by an act of Congress of the United States or any regulation duly promulgated thereunder. As long as the recipient continues to receive a supplemental security income payment, the supplemental payment shall not be reduced. The minimum supplemental payment for those persons who continue to meet the December, 1973, eligibility standards for aid to the blind shall be in an amount which, when added to the federal supplemental security income payment, equals the amount of the blind pension grant as provided for in chapter 209.

3. The amount of supplemental payment made to persons who do not meet the eligibility requirements for federal supplemental security income benefits, but who do meet the December, 1973, eligibility standards for old age assistance, permanent and total disability and aid to the blind or less restrictive requirements as established by rule or regulation of the family support division **[**of family services**]**, shall be in an amount established by rule and regulation of the family support division **[**of family services**]** sufficient to, when added to all other income, equal the amount of cash income received in December, 1973; except, in establishing the amount of the supplemental payment, there shall be disregarded cost-of-living increases provided for in Titles II and XVI of the federal Social Security Act and any other benefits or income required to be disregarded by an act of Congress of the

United States or any regulation duly promulgated thereunder. The minimum supplemental payments for those persons who continue to meet the December, 1973, eligibility standards for aid to the blind shall be a blind pension payment as prescribed in chapter 209.

4. The family support division [of family services] shall make monthly payments to persons meeting the eligibility standards for the aid to the blind program in effect December 31, 1973, who are bona fide residents of the state of Missouri. The payment shall be in the amount prescribed in subsection 1 of section 209.040, less any federal supplemental security income payment.

5. The family support division [of family services] shall make monthly payments to persons age twenty-one or over who meet the eligibility requirements in effect on December 31, 1973, or less restrictive requirements as established by rule or regulation of the family support division [of family services], who were receiving old age assistance, permanent and total disability assistance, general relief assistance, or aid to the blind assistance lawfully, who are not eligible for nursing home care under the Title XIX program, and who reside in a licensed residential care facility, a licensed assisted living facility, a licensed intermediate care facility or a licensed skilled nursing facility in Missouri and whose total cash income is not sufficient to pay the amount charged by the facility; and to all applicants age twenty-one or over who are not eligible for nursing home care under the Title XIX program who are residing in a licensed residential care facility, a licensed assisted living

facility, a licensed intermediate care facility or a licensed skilled nursing facility in Missouri, who make application after December 31, 1973, provided they meet the eligibility standards for old age assistance, permanent and total disability assistance, general relief assistance, or aid to the blind assistance in effect on December 31, 1973, or less restrictive requirements as established by rule or regulation of the family support division [of family services], who are bona fide residents of the state of Missouri, and whose total cash income is not sufficient to pay the amount charged by the facility. Until July 1, 1983, the amount of the total state payment for home care in licensed residential care facilities shall not exceed one hundred twenty dollars monthly, for care in licensed intermediate care facilities or licensed skilled nursing facilities shall not exceed three hundred dollars monthly, and for care in licensed assisted living facilities shall not exceed two hundred twenty-five dollars monthly. Beginning July 1, 1983, for fiscal year 1983-1984 and each year thereafter, the amount of the total state payment for home care in licensed residential care facilities shall not exceed one hundred fifty-six dollars monthly, for care in licensed intermediate care facilities or licensed skilled nursing facilities shall not exceed three hundred ninety dollars monthly, and for care in licensed assisted living facilities shall not exceed two hundred ninety-two dollars and fifty cents monthly. No intermediate care or skilled nursing payment shall be made to a person residing in a licensed intermediate care facility or in a licensed skilled nursing facility unless such person has been determined, by his or her

own physician or doctor, to medically need such services subject to review and approval by the department. Residential care payments may be made to persons residing in licensed intermediate care facilities or licensed skilled nursing facilities. Any person eligible to receive a monthly payment pursuant to this subsection shall receive an additional monthly payment equal to the Medicaid vendor nursing facility personal needs allowance. The exact amount of the additional payment shall be determined by rule of the department. This additional payment shall not be used to pay for any supplies or services, or for any other items that would have been paid for by the family support division **[**of family services**]** if that person would have been receiving medical assistance benefits under Title XIX of the federal Social Security Act for nursing home services pursuant to the provisions of section 208.159. Notwithstanding the previous part of this subsection, the person eligible shall not receive this additional payment if such eligible person is receiving funds for personal expenses from some other state or federal program.

208.041. 1. Notwithstanding the provisions of subdivision (2) of section 208.050, the provisions of section 208.040 shall also apply to a needy child who has been deprived of parental support or care by reason of the unemployment of a parent as such term "unemployment" is defined and determined by the family support division **[**of family services pursuant to**]** under applicable federal law and regulations. The unemployed parent, for whose child or children benefits may be received, is eligible for payments and under this section must:

(1) Be physically present in Missouri, living in the home

with the child or children, actively seeking employment, and complying with requirements made by the family support division [of family services pursuant to] under applicable state and federal requirements for registration with the United States Secretary of Labor or his or her representative regarding employment, training, work incentive and special work projects;

(2) Have been unemployed for at least thirty days prior to receiving benefits under this section and must apply for and receive any unemployment benefits to which he or she is entitled, such benefits to be considered as unearned income in determining eligibility for aid to families with dependent children;

(3) Not have refused without good cause, within such thirty-day period prior to the receipt of such aid, any bona fide offer of employment which he or she is physically able to perform and otherwise qualified to engage in;

(4) Not have refused, without good cause, vocational rehabilitation, education, training, work incentive or special work projects offered;

(5) (a) Have six or more quarters of work within any thirteen-calendar-quarter period ending within one year prior to the application for such aid or have received or have been qualified to receive unemployment compensation within such one-year period;

(b) A "quarter of work" with respect to any individual shall mean a period of three consecutive calendar months ending on March thirty-first, June thirtieth, September thirtieth, or December thirty-first in which he or she received earned income of not less than fifty dollars or in which he or she participated

in a community work and training program or the work incentive program;

(c) An individual shall be deemed "qualified" for unemployment compensation under the state's unemployment compensation law if he or she would have been eligible to receive such benefits upon filing application, or he or she performed work not covered by such law which, if it has been covered, would, together with any covered work he or she performed, have made him or her eligible to receive such benefits upon filing application; and

(6) Be the natural or adoptive parent of the child or children or legally responsible for the support of the child or children.

2. The family support division **[**of family services**]** shall enter into a cooperative agreement with the state department of elementary and secondary education and the coordinating board for higher education for use of public vocational rehabilitation and education services and facilities in respect to the unemployed parent to the end that those capable of assimilating and utilizing the same may be trained or retrained.

3. The family support division **[**of family services**]** shall enter into an agreement with the division of employment security for registration and reregistration of unemployed parents, and shall refer them to the United States Secretary of Labor or his or her representative, within thirty days of receiving assistance, for the purpose of providing employment, training, work incentive and special work projects for all eligible unemployed parents as provided in section 208.042.

4. Payments shall be prorated within the limits of the appropriations, and shall not exceed the amount of the appropriations made therefor.

5. This section shall not become effective until June 16, 1983.

208.042. 1. In households containing recipients of aid to families with dependent children benefits, each appropriate child, relative or other eligible individual sixteen years of age or over shall be referred by the family support division **[**of family services**]** to the United States Secretary of Labor or his or her representative for participation in employment, training, work incentive or special work projects when established and operated by the secretary, to afford such individuals opportunities to work in the regular economy and to attain independence through gainful employment.

2. The family support division **[**of family services**]**, pursuant to applicable federal law and regulations, shall determine the standards and procedures for the referral of individuals for employment, training, work incentive and special work projects, which shall not be refused by such individuals without good cause; but no recipient or other eligible individual in the household shall be required to participate in such work programs if the person is

(1) Ill, incapacitated, or of advanced age;

(2) So remote from the location of any work or training project or program that he or she cannot effectively participate;

(3) A child attending school full time;

(4) A person whose presence in the household on a

substantially continuous basis is required because of illness or incapacity of another member of the household.

3. The family support division [of family services] shall pay to the United States Secretary of Labor or his or her representative up to twenty percent of the total cost, in cash or in kind, of the work incentive programs operated for the benefit of the eligible persons referred by the family support division [of family services]; and the family support division [of family services] shall pay an amount to the secretary for eligible persons referred to and participating in special work projects not to exceed the maximum monthly payments authorized under sections 208.041 and 208.150 for recipients of public assistance benefits. An allowance in addition to the maximum fixed by section 208.150 may also be made by the family support division [of family services] for the reasonable expenses of any needy child or needy eligible relative which are attributable to his or her participating in a work training or work incentive program.

4. If an eligible child or relative refuses without good cause to participate in any work training or work incentive program to which he or she has been referred, payment to or on behalf of the child or relative may be continued for not more than sixty days thereafter, but in such cases payments shall be made pursuant to subsection 2 of section 208.180. If a relative has refused to so participate, payments on behalf of the eligible children cared for by the relative shall be made pursuant to subsection 2 of section 208.180.

5. The family support division [of family services] is authorized to expend funds to provide child day care services,

when appropriate, for the care of children required by the absence of adult persons from the household due to referral and participation in employment, training, work incentive programs or special work projects.

208.047. 1. Notwithstanding the provisions of section 208.040, aid to dependent children benefits may be granted to a dependent child:

(1) Who would meet the requirements of section 208.040, except for his or her removal from the home of a relative as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child;

(2) For whose placement and care the children's division **[**of family services**]** is responsible;

(3) Who has been placed in a foster family home or nonprofit private child-care institution as a result of such determination; and

(4) Who (a) received aid to dependent children benefits in and for the month in which court proceedings leading to such determination were initiated; or (b) would have received aid in or for that month if application had been made therefor; or (c) in the case of a child who had been living with a relative specified in section 208.040 within six months prior to the month in which such proceedings were initiated, would have received aid in and for such month, if in such month he or she had been living with, and removed from the home of, such a relative and application had been made therefor.

2. Monthly aid to dependent children benefits on behalf of

a child placed in a foster family home or nonprofit private child-care institution shall not exceed one hundred dollars for each child and in the event that federal aid to states for dependent children placed in a nonprofit private child-care institution is withdrawn, benefit payments under this section shall be terminated on behalf of a dependent child in a nonprofit private child-care institution.

208.050. Aid to families with dependent children benefits shall not be granted or continued:

(1) Unless the benefits granted are used to meet the needs of the child and the needy eligible relative caring for a dependent child;

(2) To any person when benefits are claimed by reason of his or her physical or mental incapacity, and such person refuses to accept vocational rehabilitation services or training or medical or other legal healing treatment necessary to improve or restore his or her capacity to support himself or herself and his or her dependents, and it is certified by competent medical authority designated by the family support division **[**of family services**]** that such physical or mental incapacity can be removed, corrected or substantially improved; provided, however, the family support division **[**of family services**]** may in its discretion waive this requirement, taking into consideration the age of the individual, nature and extent of training and treatment, or whether he or she endangers the health of others in his or her refusal, whether the training or treatment is such that a reasonably prudent person would accept it, and all other facts and circumstances in the individual case;

(3) To a household that receives in any month an amount of income which together with all other income for that month, not excluded or disregarded by the division, exceeds the standard of need applicable to the family:

(a) Such amount of income shall be considered income to the individual in the month received, and the household of which such person is a member shall be ineligible for the whole number of months that equals the sum of such amount and all other income received in such month, not excluded or disregarded by the division, divided by the standard of need applicable to the family;

(b) Any income remaining shall be treated as income received in the first month following the period of ineligibility specified in paragraph (a);

(c) For the purposes of this subdivision, where consistent with federal law or regulation, "income" shall not include the proceeds of any life insurance policy, or prearranged funeral or burial contract, provided that such proceeds are actually used to pay for the funeral or burial expenses of the deceased family member.

208.060. Application for any benefits under any law of this state administered by the family support division **[**of family services**]** acting as a state agency shall be filed in the county office. Application for aid to dependent children shall be made by the person with whom the child will live while receiving aid. All applications shall be in writing, or reduced to writing, upon blank forms furnished by the family support division **[**of family services**]**, and shall contain such information as may be required

by the family support division [of family services] or by any federal authority under the Social Security law and amendments thereto. The term "benefits" as used herein or in this law shall be construed to mean:

(1) Aid to dependent children;

(2) Aid or public relief to individuals in cases of public calamity;

(3) Money or services available for child welfare services;

(4) Any other grant, aid, pension or assistance administered by the family support division [of family services].

208.070. 1. The department shall permit any individual who wants to apply for assistance pursuant to the temporary assistance or any other public assistance program administered or supervised by the department to so apply. Such public assistance shall be furnished with reasonable promptness in accordance with statute and rules of the department.

2. A request for assistance may be made at a county office of the family support division [of family services] in person, by telephone or by mail.

3. Whenever the division receives a request for assistance an investigation and record shall be promptly made of the circumstances of the applicant by the division in order to ascertain the facts supporting the application. Upon the completion of such investigation the director of the family support division [of family services], or someone designated by the director, shall decide whether the applicant is eligible for benefits and if entitled to benefits determine the amount thereof and the date on which such benefits shall begin. The division

shall notify the applicant of the decision.

4. During the investigation of any application or recertification of assistance, the division shall:

(1) At the time of each application, provide each applicant household with a clear written statement explaining what acts the member of the household shall perform to cooperate in verifying and otherwise completing the application process;

(2) Assist each applicant household in obtaining appropriate verification and completing the application process;

(3) Not require any household to submit additional proof of a matter on which the division already has current verification, unless the division has reason to believe that such information is inaccurate, incomplete or insufficient; and

(4) Not deny any application for assistance solely because of the failure of a person outside the household to cooperate in providing information.

5. The division shall complete the investigation within the time allowed by federal law or state statute. If no time limit is otherwise specified by federal law or state statute, benefits shall be provided not later than forty-five days following the filing of an application.

6. The division shall explain to the applicant the nature of all categories of public assistance, benefits and services for which the applicant household may be eligible and may be given, and the consequences of accepting temporary assistance benefits, including, but not limited to, lifetime limits and work requirements. If the applicant chooses not to receive temporary assistance benefits, the division shall evaluate the applicant's

eligibility for medical assistance, food stamps and any other public assistance benefits which the applicant or the applicant's dependents may be eligible.

208.072. 1. A completed application for medical assistance for services described in section 208.152 shall be approved or denied within thirty days from submission to the family support division [of family services] or its successor.

2. The MO HealthNet division [of medical services] shall remit to a licensed nursing home operator the Medicaid payment for a newly admitted Medicaid resident in a licensed long-term care facility within forty-five days of the resident's date of admission.

208.075. 1. When an application is made for aid to dependent children or aid to the permanently and totally disabled benefits because of the physical or mental condition of a person the family support division [of family services] shall require the person to be examined by competent medical or other appropriate authority designated by the family support division [of family services]. If benefits are paid because of the physical or mental condition of a person the family support division [of family services] may, as often as it deems necessary, require such person to be reexamined by competent medical or other appropriate authority designated by the family support division [of family services]. Written reports of examinations and reexaminations shall be required and evaluated by the family support division [of family services] in determining eligibility to receive benefits or to continue to receive benefits.

2. In any appeal hearing as provided for by section 208.080 and the question at issue involves the physical or mental incapacity of a person, regardless of whether assistance has been denied or a recipient has been removed from the assistance rolls, the written reports of the examination or reexamination made by competent medical or other appropriate authority designated by the family support division [of family services], and any written medical reports by other physicians or clinics submitted by claimant, are hereby declared to be competent evidence and admissible as such at the appeal hearing to be considered by the director with any other evidence submitted. Any written medical report purporting to be executed and signed by the medical or other appropriate authority, its agents, or employees shall be prima facie evidence of it being properly executed and signed without further proof of identification.

208.080. 1. Any applicant for or recipient of benefits or services provided by law by the [division of family services] family support division, children's division, or MO HealthNet division may appeal to the director of the respective division [of family services] or, if appropriate, the Missouri Medicaid audit and compliance unit from a decision [of a county office of the division of family services] in any of the following cases:

(1) If his or her right to make application for any such benefits or services is denied; or

(2) If his or her application is disallowed in whole or in part, or is not acted upon within a reasonable time after it is filed; or

(3) If it is proposed to cancel or modify benefits or

services; or

(4) If he or she is adversely affected by any determination of [a county office of the division of family services] the family support division, children's division, Missouri Medicaid audit and compliance unit, or MO HealthNet division in [its] the administration of the programs administered by [it] such divisions or units; or

(5) If a determination is made pursuant to subsection 2 of section 208.180 that payment of benefits on behalf of a dependent child shall not be made to the relative with whom he or she lives.

2. If [the] a division or unit proposes to terminate or modify the payment of benefits or the providing of services to the recipient or [the] a division or unit has terminated or modified the payment of benefits or providing of services to the recipient and the recipient appeals, the decision of the director as to the eligibility of the recipient at the time such action was proposed or taken shall be based on the facts shown by the evidence presented at the hearing of the appeal to have existed at the time such action to terminate or modify was proposed or was taken.

3. In the case of a proposed action by the [county office of the division of family services] family support division, children's division, Missouri Medicaid audit and compliance unit, or MO HealthNet division to reduce, modify, or discontinue benefits or services to a recipient, the recipient of such benefits or services shall have ten days from the date of the mailing of notice of the proposed action to reduce, modify, or

discontinue benefits or services within which to request an appeal to the director of the division [of family services]. In the notice to the recipient of such proposed action, the [county office of the division of family services] appropriate division or unit shall notify the recipient of all his or her rights of appeal under this section. Proper blank forms for appeal to the director of the division [of family services] or unit shall be furnished by the [county] the appropriate division or unit office to any aggrieved recipient. Every such appeal to the director of the division [of family services] shall be transmitted by the [county office to the director of the division of family services] appropriate division or unit office immediately upon the same being filed with the [county] appropriate division or unit office. If an appeal is requested, benefits or services shall continue undiminished or unchanged until such appeal is heard and a decision has been rendered thereon, except that in an aid to families with dependent children case the recipient may request that benefits or services not be continued undiminished or unchanged during the appeal.

4. When a case has been closed or modified and no appeal was requested prior to closing or modification, the recipient shall have ninety days from the date of closing or modification to request an appeal to the director of the division [of family services] or unit. Each recipient who has not requested an appeal prior to the closing or modification of his or her case shall be notified at the time of such closing or modification of his or her right to request an appeal during this ninety-day period. Proper blank forms for requesting an appeal to the

director of the division [of family services] shall be furnished by the [county] appropriate division or unit office to any aggrieved applicant. Every such request made in any manner for an appeal to the director of the division [of family services] or unit shall be transmitted by the [county] appropriate division or unit office to the director of the division [of family services] or unit immediately upon the same being filed with the [county] appropriate division or unit office. If an appeal is requested in the ninety-day period subsequent to the closing or modification, benefits or services shall not be continued at their prior level during the pendency of the appeal.

5. In the case of a rejection of an application for benefits or services, the aggrieved applicant shall have ninety days from the date of the notice of the action in which to request an appeal to the director of the division [of family services]. In the rejection notice the applicant for benefits or services shall be notified of all of his or her rights of appeal under this section. Proper blank forms for requesting an appeal to the director of the division [of family services] shall be furnished by the [county office] appropriate division to any aggrieved applicant. Any such request made in any manner for an appeal shall be transmitted by the [county office] appropriate division to the director of the division [of family services], immediately upon the same being filed with the [county office] appropriate division.

6. If the division has rejected an application for benefits or services and the applicant appeals, the decision of the director as to the eligibility of the applicant at the time such

rejection was made shall be based upon the facts shown by the evidence presented at the hearing of the appeal to have existed at the time the rejection was made.

7. The director of the division **[**of family services**]** or unit shall give the applicant for benefits or services or the recipient of benefits or services reasonable notice of, and an opportunity for, a fair hearing in the county of his or her residence at the time the adverse action was taken. The hearing shall be conducted by the director of the division **[**of family services or his**]** or unit, or such director's designee. Every applicant or recipient, on appeal to the director of the division **[**of family services**]** or unit, shall be entitled to be present at the hearing, in person and by attorney or representative, and shall be entitled to introduce into the record of such hearing any and all evidence, by witnesses or otherwise, pertinent to such applicant's or recipient's eligibility between the time he or her applied for benefits or services and the time the application was denied or the benefits or services were terminated or modified, and all such evidence shall be taken down, preserved, and shall become a part of the applicant's or recipient's appeal record. Upon the record so made, the director of the division **[**of family services**]** or unit shall determine all questions presented by the appeal, and shall make such decision as to the granting of benefits or services as in his or her opinion is justified and is in conformity with the provisions of the law. The director shall clearly state the reasons for his or her decision and shall include a statement of findings of fact and conclusions of law pertinent to the

questions in issue.

8. All appeal requests may initially be made orally or in any written form, but all such requests shall be transcribed on forms furnished by the division **[**of family services**]** or unit and signed by the aggrieved applicant or recipient or his or her representative prior to the commencement of the hearing.

208.100. 1. Any claimant aggrieved by the decision of the director of the **[**division of family services**]** family support division, children's division, Missouri Medicaid audit and compliance unit, or MO HealthNet division made under section 208.080 may appeal to the circuit court of the county in which such claimant resides within ninety days from the date of the action and decision appealed from.

2. The appropriate division or unit shall furnish the claimant, upon request, with proper form of affidavit for appeal from the director of the appropriate division **[**of family services**]** or unit to the circuit court.

3. Upon the affidavit for appeal, duly executed by the claimant before an officer authorized to administer oaths, being filed with the appropriate division or unit within ninety days from the date of the decision of the director of the appropriate division **[**of family services**]** or unit the entire record preserved in the case at the time of the claimant's hearing, together with the hearing decision and the affidavit for appeal, shall be certified by the director of the appropriate division **[**of family services**]** or unit to the circuit court and the case shall be docketed as other civil cases except that neither party shall be required to give bond or deposit any money for docket fee on

appeal to the circuit court.

4. Such appeal shall be tried in the circuit court upon the record of the proceedings had before and certified by the director of the appropriate division **[**of family services**]** or unit, which shall in such case be certified and included in the return of said director to the court.

5. Upon the record so certified by the director of the appropriate division **[**of family services**]** or unit, the circuit court shall review the action and decision of the director in accordance with the provisions of section 536.140; and the court shall render judgment affirming, reversing, or modifying the director's decision, and may order the reconsideration of the case in the light of the court's opinion and judgment, and may order the director to take such further action as it may be proper to require.

208.120. 1. For the protection of applicants and recipients, all officers and employees of the state of Missouri are prohibited, except as hereinafter provided, from disclosing any information obtained by them in the discharge of their official duties relative to the identity of applicants for or recipients of benefits or the contents of any records, files, papers, and communications, except in proceedings or investigations where the eligibility of an applicant to receive benefits, or the amount received or to be received by any recipient, is called into question, or for the purposes directly connected with the administration of public assistance. In any judicial proceedings, except such proceedings as are directly concerned with the administration of these programs, such

information obtained in the discharge of official duties relative to the identity of applicants for or recipients of benefits, and records, files, papers, communications and their contents shall be confidential and not admissible in evidence.

2. The family support division **[**of family services**]** shall in each county welfare office maintain monthly a report showing the name and address of all recipients certified by such county welfare office to receive public assistance benefits, together with the amount paid to each recipient during the preceding month, and each such report and information contained therein shall be open to public inspection at all times during the regular office hours of the county welfare office; provided, however, that all information regarding applicants or recipients other than names, addresses and amounts of grants shall be considered as confidential.

3. It shall be unlawful for any person, association, firm, corporation or other agency to solicit, disclose, receive, make use of or authorize, knowingly permit, participate in or acquiesce in the use of any name or lists of names for commercial or political purposes of any nature; or for any name or list of names of recipients secured from such report in the county welfare office to be published in any manner. Anyone willfully or knowingly violating any provisions of this section shall be guilty of a misdemeanor. If the violation is by other than an individual, the penalty may be adjudged against any officer, agent, employee, servant or other person of the association, firm, corporation or other agency who committed or participated in such violation and is found guilty thereof.

208.125. The director of the family support division [of family services] is authorized to destroy all applications and records compiled by the family support division [of family services] in connection with the investigation and payment of public assistance or blind pensions after five years have elapsed since the closing of a case or the rejection of an application.

208.130. All benefits granted may be reconsidered by the director of [family services] the department of social services or the appropriate division or unit as frequently as he or she may deem necessary. After such further investigation the amount of a benefit may be changed or entirely withdrawn.

208.145. For the purposes of the application of section 208.151, individuals shall be deemed to be recipients of aid to families with dependent children and individuals shall be deemed eligible for such assistance if:

(1) The individual meets eligibility requirements which are no more restrictive than the July 16, 1996, eligibility requirements for aid to families with dependent children, as established by the family support division [of family services]; or

(2) Each dependent child, and each relative with whom such a child is living including the spouse of such relative as described in 42 U.S.C. 606(b), as in effect on July 16, 1996, who ceases to meet the eligibility criteria set forth in subdivision (1) of this section as a result of the collection or increased collection of child or spousal support under part IV-D of the Social Security Act, 42 U.S.C. 651 et seq., and who has received such aid in at least three of the six months immediately

preceding the month in which ineligibility begins, shall be deemed eligible for an additional four calendar months beginning with the month in which such ineligibility begins.

208.150. The maximum amount of monthly public assistance money payment benefits payable to or on behalf of a needy person shall not exceed the following:

(1) Aid to families with a dependent child, or children, and needy eligible relatives caring for a dependent child, or children, in an amount to be computed as follows:

(a) Beginning July 1, 1993, and at least every three years thereafter, the family support division [of family services] shall determine by regulation the average need for each such eligible person, which shall include the cost of basic needs required to maintain a child or children in the home at a reasonable and decent low-income standard of living, and shall pay, on a uniform basis, the highest percent of such need as shall be possible within the limits of funds appropriated for that purpose, less available income;

(b) "Available income" means the total income, before taxes or other deductions, of each person residing within the same household, except, to the extent allowed by federal law, the earnings of a student under nineteen years of age enrolled in a secondary school or at the equivalent level of vocational or technical training, plus or minus such credits or deductions as may be prescribed by the family support division [of family services] by regulations for the sole purpose of complying with federal laws or regulations relating to this state's eligibility to receive federal funds for aid to families with dependent

children payments, and such credits or deductions as may otherwise be prescribed by law;

(c) The available income shall be subtracted from the total amount which otherwise would be paid;

(d) If the determined need under this subdivision is of an amount less than ten dollars, no cash payment will be made;

(2) Aid or public relief to an unemployable person not to exceed one hundred dollars.

208.152. 1. MO HealthNet payments shall be made on behalf of those eligible needy persons as defined in section 208.151 who are unable to provide for it in whole or in part, with any payments to be made on the basis of the reasonable cost of the care or reasonable charge for the services as defined and determined by the MO HealthNet division, unless otherwise hereinafter provided, for the following:

(1) Inpatient hospital services, except to persons in an institution for mental diseases who are under the age of sixty-five years and over the age of twenty-one years; provided that the MO HealthNet division shall provide through rule and regulation an exception process for coverage of inpatient costs in those cases requiring treatment beyond the seventy-fifth percentile professional activities study (PAS) or the MO HealthNet children's diagnosis length-of-stay schedule; and provided further that the MO HealthNet division shall take into account through its payment system for hospital services the situation of hospitals which serve a disproportionate number of low-income patients;

(2) All outpatient hospital services, payments therefor to

be in amounts which represent no more than eighty percent of the lesser of reasonable costs or customary charges for such services, determined in accordance with the principles set forth in Title XVIII A and B, Public Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. 301, et seq.), but the MO HealthNet division may evaluate outpatient hospital services rendered under this section and deny payment for services which are determined by the MO HealthNet division not to be medically necessary, in accordance with federal law and regulations;

(3) Laboratory and X-ray services;

(4) Nursing home services for participants, except to persons with more than five hundred thousand dollars equity in their home or except for persons in an institution for mental diseases who are under the age of sixty-five years, when residing in a hospital licensed by the department of health and senior services or a nursing home licensed by the department of health and senior services or appropriate licensing authority of other states or government-owned and -operated institutions which are determined to conform to standards equivalent to licensing requirements in Title XIX of the federal Social Security Act (42 U.S.C. 301, et seq.), as amended, for nursing facilities. The MO HealthNet division may recognize through its payment methodology for nursing facilities those nursing facilities which serve a high volume of MO HealthNet patients. The MO HealthNet division when determining the amount of the benefit payments to be made on behalf of persons under the age of twenty-one in a nursing facility may consider nursing facilities furnishing care to persons under the age of twenty-one as a classification separate

from other nursing facilities;

(5) Nursing home costs for participants receiving benefit payments under subdivision (4) of this subsection for those days, which shall not exceed twelve per any period of six consecutive months, during which the participant is on a temporary leave of absence from the hospital or nursing home, provided that no such participant shall be allowed a temporary leave of absence unless it is specifically provided for in his plan of care. As used in this subdivision, the term "temporary leave of absence" shall include all periods of time during which a participant is away from the hospital or nursing home overnight because he is visiting a friend or relative;

(6) Physicians' services, whether furnished in the office, home, hospital, nursing home, or elsewhere;

(7) Drugs and medicines when prescribed by a licensed physician, dentist, podiatrist, or an advanced practice registered nurse; except that no payment for drugs and medicines prescribed on and after January 1, 2006, by a licensed physician, dentist, podiatrist, or an advanced practice registered nurse may be made on behalf of any person who qualifies for prescription drug coverage under the provisions of P.L. 108-173;

(8) Emergency ambulance services and, effective January 1, 1990, medically necessary transportation to scheduled, physician-prescribed nonelective treatments;

(9) Early and periodic screening and diagnosis of individuals who are under the age of twenty-one to ascertain their physical or mental defects, and health care, treatment, and other measures to correct or ameliorate defects and chronic

conditions discovered thereby. Such services shall be provided in accordance with the provisions of Section 6403 of P.L. 101-239 and federal regulations promulgated thereunder;

(10) Home health care services;

(11) Family planning as defined by federal rules and regulations; provided, however, that such family planning services shall not include abortions unless such abortions are certified in writing by a physician to the MO HealthNet agency that, in **[**his**]** the physician's professional judgment, the life of the mother would be endangered if the fetus were carried to term;

(12) Inpatient psychiatric hospital services for individuals under age twenty-one as defined in Title XIX of the federal Social Security Act (42 U.S.C. 1396d, et seq.);

(13) Outpatient surgical procedures, including presurgical diagnostic services performed in ambulatory surgical facilities which are licensed by the department of health and senior services of the state of Missouri; except, that such outpatient surgical services shall not include persons who are eligible for coverage under Part B of Title XVIII, Public Law 89-97, 1965 amendments to the federal Social Security Act, as amended, if exclusion of such persons is permitted under Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security Act, as amended;

(14) Personal care services which are medically oriented tasks having to do with a person's physical requirements, as opposed to housekeeping requirements, which enable a person to be treated by his or her physician on an outpatient rather than on an inpatient or residential basis in a hospital, intermediate

care facility, or skilled nursing facility. Personal care services shall be rendered by an individual not a member of the participant's family who is qualified to provide such services where the services are prescribed by a physician in accordance with a plan of treatment and are supervised by a licensed nurse. Persons eligible to receive personal care services shall be those persons who would otherwise require placement in a hospital, intermediate care facility, or skilled nursing facility. Benefits payable for personal care services shall not exceed for any one participant one hundred percent of the average statewide charge for care and treatment in an intermediate care facility for a comparable period of time. Such services, when delivered in a residential care facility or assisted living facility licensed under chapter 198 shall be authorized on a tier level based on the services the resident requires and the frequency of the services. A resident of such facility who qualifies for assistance under section 208.030 shall, at a minimum, if prescribed by a physician, qualify for the tier level with the fewest services. The rate paid to providers for each tier of service shall be set subject to appropriations. Subject to appropriations, each resident of such facility who qualifies for assistance under section 208.030 and meets the level of care required in this section shall, at a minimum, if prescribed by a physician, be authorized up to one hour of personal care services per day. Authorized units of personal care services shall not be reduced or tier level lowered unless an order approving such reduction or lowering is obtained from the resident's personal physician. Such authorized units of personal care services or

tier level shall be transferred with such resident if her or she transfers to another such facility. Such provision shall terminate upon receipt of relevant waivers from the federal Department of Health and Human Services. If the Centers for Medicare and Medicaid Services determines that such provision does not comply with the state plan, this provision shall be null and void. The MO HealthNet division shall notify the revisor of statutes as to whether the relevant waivers are approved or a determination of noncompliance is made;

(15) Mental health services. The state plan for providing medical assistance under Title XIX of the Social Security Act, 42 U.S.C. 301, as amended, shall include the following mental health services when such services are provided by community mental health facilities operated by the department of mental health or designated by the department of mental health as a community mental health facility or as an alcohol and drug abuse facility or as a child-serving agency within the comprehensive children's mental health service system established in section 630.097. The department of mental health shall establish by administrative rule the definition and criteria for designation as a community mental health facility and for designation as an alcohol and drug abuse facility. Such mental health services shall include:

(a) Outpatient mental health services including preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established, implemented, monitored, and revised under the auspices of a therapeutic team as a part of

client services management;

(b) Clinic mental health services including preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established, implemented, monitored, and revised under the auspices of a therapeutic team as a part of client services management;

(c) Rehabilitative mental health and alcohol and drug abuse services including home and community-based preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health or alcohol and drug abuse professional in accordance with a plan of treatment appropriately established, implemented, monitored, and revised under the auspices of a therapeutic team as a part of client services management. As used in this section, mental health professional and alcohol and drug abuse professional shall be defined by the department of mental health pursuant to duly promulgated rules. With respect to services established by this subdivision, the department of social services, MO HealthNet division, shall enter into an agreement with the department of mental health. Matching funds for outpatient mental health services, clinic mental health services, and rehabilitation services for mental health and alcohol and drug abuse shall be certified by the department of mental health to the MO HealthNet division. The agreement shall establish a mechanism for the joint implementation of the provisions of this subdivision. In addition, the agreement shall

establish a mechanism by which rates for services may be jointly developed;

(16) Such additional services as defined by the MO HealthNet division to be furnished under waivers of federal statutory requirements as provided for and authorized by the federal Social Security Act (42 U.S.C. 301, et seq.) subject to appropriation by the general assembly;

(17) The services of an advanced practice registered nurse with a collaborative practice agreement to the extent that such services are provided in accordance with chapters 334 and 335, and regulations promulgated thereunder;

(18) Nursing home costs for participants receiving benefit payments under subdivision (4) of this subsection to reserve a bed for the participant in the nursing home during the time that the participant is absent due to admission to a hospital for services which cannot be performed on an outpatient basis, subject to the provisions of this subdivision:

(a) The provisions of this subdivision shall apply only if:

a. The occupancy rate of the nursing home is at or above ninety-seven percent of MO HealthNet certified licensed beds, according to the most recent quarterly census provided to the department of health and senior services which was taken prior to when the participant is admitted to the hospital; and

b. The patient is admitted to a hospital for a medical condition with an anticipated stay of three days or less;

(b) The payment to be made under this subdivision shall be provided for a maximum of three days per hospital stay;

(c) For each day that nursing home costs are paid on behalf

of a participant under this subdivision during any period of six consecutive months such participant shall, during the same period of six consecutive months, be ineligible for payment of nursing home costs of two otherwise available temporary leave of absence days provided under subdivision (5) of this subsection; and

(d) The provisions of this subdivision shall not apply unless the nursing home receives notice from the participant or the participant's responsible party that the participant intends to return to the nursing home following the hospital stay. If the nursing home receives such notification and all other provisions of this subsection have been satisfied, the nursing home shall provide notice to the participant or the participant's responsible party prior to release of the reserved bed;

(19) Prescribed medically necessary durable medical equipment. An electronic web-based prior authorization system using best medical evidence and care and treatment guidelines consistent with national standards shall be used to verify medical need;

(20) Hospice care. As used in this subdivision, the term "hospice care" means a coordinated program of active professional medical attention within a home, outpatient and inpatient care which treats the terminally ill patient and family as a unit, employing a medically directed interdisciplinary team. The program provides relief of severe pain or other physical symptoms and supportive care to meet the special needs arising out of physical, psychological, spiritual, social, and economic stresses which are experienced during the final stages of illness, and during dying and bereavement and meets the Medicare requirements

for participation as a hospice as are provided in 42 CFR Part 418. The rate of reimbursement paid by the MO HealthNet division to the hospice provider for room and board furnished by a nursing home to an eligible hospice patient shall not be less than ninety-five percent of the rate of reimbursement which would have been paid for facility services in that nursing home facility for that patient, in accordance with subsection (c) of Section 6408 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989);

(21) Prescribed medically necessary dental services. Such services shall be subject to appropriations. An electronic web-based prior authorization system using best medical evidence and care and treatment guidelines consistent with national standards shall be used to verify medical need;

(22) Prescribed medically necessary optometric services. Such services shall be subject to appropriations. An electronic web-based prior authorization system using best medical evidence and care and treatment guidelines consistent with national standards shall be used to verify medical need;

(23) Blood clotting products-related services. For persons diagnosed with a bleeding disorder, as defined in section 338.400, reliant on blood clotting products, as defined in section 338.400, such services include:

(a) Home delivery of blood clotting products and ancillary infusion equipment and supplies, including the emergency deliveries of the product when medically necessary;

(b) Medically necessary ancillary infusion equipment and supplies required to administer the blood clotting products; and

(c) Assessments conducted in the participant's home by a

pharmacist, nurse, or local home health care agency trained in bleeding disorders when deemed necessary by the participant's treating physician;

(24) The MO HealthNet division shall, by January 1, 2008, and annually thereafter, report the status of MO HealthNet provider reimbursement rates as compared to one hundred percent of the Medicare reimbursement rates and compared to the average dental reimbursement rates paid by third-party payors licensed by the state. The MO HealthNet division shall, by July 1, 2008, provide to the general assembly a four-year plan to achieve parity with Medicare reimbursement rates and for third-party payor average dental reimbursement rates. Such plan shall be subject to appropriation and the division shall include in its annual budget request to the governor the necessary funding needed to complete the four-year plan developed under this subdivision.

2. Additional benefit payments for medical assistance shall be made on behalf of those eligible needy children, pregnant women and blind persons with any payments to be made on the basis of the reasonable cost of the care or reasonable charge for the services as defined and determined by the MO HealthNet division **[**of medical services**]**, unless otherwise hereinafter provided, for the following:

(1) Dental services;

(2) Services of podiatrists as defined in section 330.010;

(3) Optometric services as defined in section 336.010;

(4) Orthopedic devices or other prosthetics, including eye glasses, dentures, hearing aids, and wheelchairs;

(5) Hospice care. As used in this [subsection] subdivision, the term "hospice care" means a coordinated program of active professional medical attention within a home, outpatient and inpatient care which treats the terminally ill patient and family as a unit, employing a medically directed interdisciplinary team. The program provides relief of severe pain or other physical symptoms and supportive care to meet the special needs arising out of physical, psychological, spiritual, social, and economic stresses which are experienced during the final stages of illness, and during dying and bereavement and meets the Medicare requirements for participation as a hospice as are provided in 42 CFR Part 418. The rate of reimbursement paid by the MO HealthNet division to the hospice provider for room and board furnished by a nursing home to an eligible hospice patient shall not be less than ninety-five percent of the rate of reimbursement which would have been paid for facility services in that nursing home facility for that patient, in accordance with subsection (c) of Section 6408 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989);

(6) Comprehensive day rehabilitation services beginning early posttrauma as part of a coordinated system of care for individuals with disabling impairments. Rehabilitation services must be based on an individualized, goal-oriented, comprehensive and coordinated treatment plan developed, implemented, and monitored through an interdisciplinary assessment designed to restore an individual to optimal level of physical, cognitive, and behavioral function. The MO HealthNet division shall establish by administrative rule the definition and criteria for

designation of a comprehensive day rehabilitation service facility, benefit limitations and payment mechanism. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this subdivision shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

3. The MO HealthNet division may require any participant receiving MO HealthNet benefits to pay part of the charge or cost until July 1, 2008, and an additional payment after July 1, 2008, as defined by rule duly promulgated by the MO HealthNet division, for all covered services except for those services covered under subdivisions (14) and (15) of subsection 1 of this section and sections 208.631 to 208.657 to the extent and in the manner authorized by Title XIX of the federal Social Security Act (42 U.S.C. 1396, et seq.) and regulations thereunder. When substitution of a generic drug is permitted by the prescriber according to section 338.056, and a generic drug is substituted for a name-brand drug, the MO HealthNet division may not lower or delete the requirement to make a co-payment pursuant to regulations of Title XIX of the federal Social Security Act. A provider of goods or services described under this section must

collect from all participants the additional payment that may be required by the MO HealthNet division under authority granted herein, if the division exercises that authority, to remain eligible as a provider. Any payments made by participants under this section shall be in addition to and not in lieu of payments made by the state for goods or services described herein except the participant portion of the pharmacy professional dispensing fee shall be in addition to and not in lieu of payments to pharmacists. A provider may collect the co-payment at the time a service is provided or at a later date. A provider shall not refuse to provide a service if a participant is unable to pay a required payment. If it is the routine business practice of a provider to terminate future services to an individual with an unclaimed debt, the provider may include uncollected co-payments under this practice. Providers who elect not to undertake the provision of services based on a history of bad debt shall give participants advance notice and a reasonable opportunity for payment. A provider, representative, employee, independent contractor, or agent of a pharmaceutical manufacturer shall not make co-payment for a participant. This subsection shall not apply to other qualified children, pregnant women, or blind persons. If the Centers for Medicare and Medicaid Services does not approve the Missouri MO HealthNet state plan amendment submitted by the department of social services that would allow a provider to deny future services to an individual with uncollected co-payments, the denial of services shall not be allowed. The department of social services shall inform providers regarding the acceptability of denying services as the

result of unpaid co-payments.

4. The MO HealthNet division or Missouri Medicaid audit and compliance unit shall have the right to collect medication samples from participants in order to maintain program integrity.

5. Reimbursement for obstetrical and pediatric services under subdivision (6) of subsection 1 of this section shall be timely and sufficient to enlist enough health care providers so that care and services are available under the state plan for MO HealthNet benefits at least to the extent that such care and services are available to the general population in the geographic area, as required under subparagraph (a)(30)(A) of 42 U.S.C. 1396a and federal regulations promulgated thereunder.

6. Beginning July 1, 1990, reimbursement for services rendered in federally funded health centers shall be in accordance with the provisions of subsection 6402(c) and Section 6404 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989) and federal regulations promulgated thereunder.

7. Beginning July 1, 1990, the department of social services shall provide notification and referral of children below age five, and pregnant, breast-feeding, or postpartum women who are determined to be eligible for MO HealthNet benefits under section 208.151 to the special supplemental food programs for women, infants and children administered by the department of health and senior services. Such notification and referral shall conform to the requirements of Section 6406 of P.L. 101-239 and regulations promulgated thereunder.

8. Providers of long-term care services shall be reimbursed for their costs in accordance with the provisions of Section 1902

(a)(13)(A) of the Social Security Act, 42 U.S.C. 1396a, as amended, and regulations promulgated thereunder.

9. Reimbursement rates to long-term care providers with respect to a total change in ownership, at arm's length, for any facility previously licensed and certified for participation in the MO HealthNet program shall not increase payments in excess of the increase that would result from the application of Section 1902 (a)(13)(C) of the Social Security Act, 42 U.S.C. 1396a (a)(13)(C).

10. The **[**MO HealthNet division,**]** Missouri Medicaid audit and compliance unit may enroll qualified residential care facilities and assisted living facilities, as defined in chapter 198, as MO HealthNet personal care providers.

11. Any income earned by individuals eligible for certified extended employment at a sheltered workshop under chapter 178 shall not be considered as income for purposes of determining eligibility under this section.

208.154. If the funds at the disposal or which may be obtained by the **[**division of family**]** department of social services for the payment of public assistance money payment benefits or to or on behalf of any person for medical assistance benefits shall at any time become insufficient to pay the full amount thereof, the amount of any type of payment to or on behalf of each of such persons shall be reduced pro rata in proportion to such deficiency in the total amount available or to become available for such purpose.

208.156. 1. The **[**division of family services**]** family support division, MO HealthNet division, and Missouri Medicaid

audit and compliance unit shall provide for granting an opportunity for a fair hearing under section 208.080 to any applicant or recipient whose claim for medical assistance is denied or is not acted upon with reasonable promptness.

2. Any person authorized under section 208.153 to provide services for which benefit payments are authorized under section 208.152 whose claim for reimbursement for such services is denied or is not acted upon with reasonable promptness shall be entitled to a hearing before the administrative hearing commission pursuant to the provisions of chapter 621.

3. Any person authorized under section 208.153 to provide services for which benefit payments are authorized under section 208.152 who is denied participation in any program or programs established under the provisions of chapter 208 shall be entitled to a hearing before the administrative hearing commission pursuant to the provisions of chapter 621.

4. Any person authorized under section 208.153 to provide services for which benefit payments are authorized under section 208.152 who is aggrieved by any rule or regulation promulgated by the department of social services or any division or unit therein shall be entitled to a hearing before the administrative hearing commission pursuant to the provisions of chapter 621.

5. Any person authorized under section 208.153 to provide services for which benefit payments are authorized under section 208.152 who is aggrieved by any rule or regulation, contractual agreement, or decision, as provided for in section 208.166, by the department of social services or any division or unit therein shall be entitled to a hearing before the administrative hearing

commission pursuant to the provisions of chapter 621.

6. No provider of service may file a petition for a hearing before the administrative hearing commission unless the amount for which **[**he**]** the provider seeks reimbursement exceeds five hundred dollars.

7. One or more providers of service as will fairly insure adequate representation of others having similar claims against the department of social services or any division or unit therein may institute the hearing on behalf of all in the class if there is a common question of law or fact affecting the several rights and a common relief is sought.

8. Any person authorized under section 208.153 to provide services for which benefit payments are authorized under section 208.152 and who is entitled to a hearing as provided for in the preceding sections shall have thirty days from the date of mailing or delivery of a decision of the department of social services or its designated division or unit in which to file his or her petition for review with the administrative hearing commission except that claims of less than five hundred dollars may be accumulated until they total that sum and at which time the provider shall have ninety days to file his or her petition.

9. When a person entitled to a hearing as provided for in this section applies to the administrative hearing commission for a stay order staying the actions of the department of social services or its divisions or units, the administrative hearing commission shall not grant such stay order until after a full hearing on such application. The application shall be advanced on the docket for immediate hearing and determination. The

person applying for such stay order shall not be granted such stay order unless that person shall show that immediate and irreparable injury, loss, or damage will result if such stay order is denied, or that such person has a reasonable likelihood of success upon the merits of his or her claim; and provided further that no stay order shall be issued without the person seeking such order posting a bond in such sum as the administrative hearing commission finds sufficient to protect and preserve the interest of the department of social services or its divisions or units. In no event may the administrative hearing commission grant such stay order where the claim arises under a program or programs funded by federal funds or by any combination of state and federal funds, unless it is specified in writing by the financial section of the appropriate federal agency that federal financial participation will be continued under the stay order.

10. The other provisions of this section notwithstanding, a person receiving or providing benefits shall have the right to bring an action in appealing from the administrative hearing commission in the circuit court of Cole County, Missouri, or the county of his or her residence pursuant to section 536.050.

208.157. The **[**division of family**]** department of social services shall comply with the provisions of Title VI, Public Law 88-352, The Civil Rights Act of 1964, and shall not in any manner deny any aid, care, services or other benefits to nor discriminate against any person on the ground of race, color or national origin; and no payment shall be made on behalf of any eligible needy person to any provider of medical assistance, care

or services who refuses to comply with the Act, or who engages in any practices contrary thereto.

208.164. 1. As used in this section, unless the context clearly requires otherwise, the following terms mean:

(1) "Abuse", a documented pattern of inducing, furnishing, or otherwise causing a recipient to receive services or merchandise not otherwise required or requested by the recipient, attending physician or appropriate utilization review team; a documented pattern of performing and billing tests, examinations, patient visits, surgeries, drugs or merchandise that exceed limits or frequencies determined by the department for like practitioners for which there is no demonstrable need, or for which the provider has created the need through ineffective services or merchandise previously rendered. The decision to impose any of the sanctions authorized in this section shall be made by the director of the department <u>or its designated divisions or units</u>, following a determination of demonstrable need or accepted medical practice made in consultation with medical or other health care professionals, or qualified peer review teams;

(2) "Department", the department of social services;

(3) "Excessive use", the act, by a person eligible for services under a contract or provider agreement between the department of social services or its divisions <u>or units</u> and a provider, of seeking and/or obtaining medical assistance benefits from a number of like providers and in quantities which exceed the levels that are considered medically necessary by current medical practices and standards for the eligible person's needs;

(4) "Fraud", a known false representation, including the concealment of a material fact that provider knew or should have known through the usual conduct of his or her profession or occupation, upon which the provider claims reimbursement under the terms and conditions of a contract or provider agreement and the policies pertaining to such contract or provider agreement of the department or its divisions or units in carrying out the providing of services, or under any approved state plan authorized by the federal Social Security Act;

(5) "Health plan", a group of services provided to recipients of medical assistance benefits by providers under a contract with the department;

(6) "Medical assistance benefits", those benefits authorized to be provided by sections 208.152 and 208.162;

(7) "Prior authorization", approval to a provider to perform a service or services for an eligible person required by the department or its divisions or units in advance of the actual service being provided or approved for a recipient to receive a service or services from a provider, required by the department or **[**its designated division**]** Missouri Medicaid audit and compliance unit in advance of the actual service or services being received;

(8) "Provider", any person, partnership, corporation, not-for-profit corporation, professional corporation, or other business entity that enters into a contract or provider agreement with the department or its divisions or units for the purpose of providing services to eligible persons, and obtaining from the department or its divisions or units reimbursement therefor;

(9) "Recipient", a person who is eligible to receive medical assistance benefits allocated through the department;

(10) "Service", the specific function, act, successive acts, benefits, continuing benefits, requested by an eligible person or provided by the provider under contract with the department or its divisions or units.

2. The department or **[**its divisions**]** Missouri Medicaid audit and compliance unit shall have the authority to suspend, revoke, or cancel any contract or provider agreement or refuse to enter into a new contract or provider agreement with any provider where it is determined the provider has committed or allowed its agents, servants, or employees to commit acts defined as abuse or fraud in this section.

3. The department or **[**its divisions**]** Missouri Medicaid audit and compliance unit shall have the authority to impose prior authorization as defined in this section:

(1) When it has reasonable cause to believe a provider or recipient has knowingly followed a course of conduct which is defined as abuse or fraud or excessive use by this section; or

(2) When it determines by rule that prior authorization is reasonable for a specified service or procedure.

4. If a provider or recipient reports to the department or its divisions or units the name or names of providers or recipients who, based upon their personal knowledge has reasonable cause to believe an act or acts are being committed which are defined as abuse, fraud or excessive use by this section, such report shall be confidential and the reporter's name shall not be divulged to anyone by the department or any of

its divisions or units, except at a judicial proceeding upon a proper protective order being entered by the court.

5. Payments for services under any contract or provider agreement between the department or its divisions or units and a provider may be withheld by the department or its divisions or units from the provider for acts or omissions defined as abuse or fraud by this section, until such time as an agreement between the parties is reached or the dispute is adjudicated under the laws of this state.

6. The department or **[**its designated division**]** Missouri Medicaid audit and compliance unit shall have the authority to review all cases and claim records for any recipient of public assistance benefits and to determine from these records if the recipient has, as defined in this section, committed excessive use of such services by seeking or obtaining services from a number of like providers of services and in quantities which exceed the levels considered necessary by current medical or health care professional practice standards and policies of the program.

7. The department or **[**its designated division**]** Missouri Medicaid audit and compliance unit shall have the authority with respect to recipients of medical assistance benefits who have committed excessive use to limit or restrict the use of the recipient's Medicaid identification card to designated providers and for designated services; the actual method by which such restrictions are imposed shall be at the discretion of the department of social services or **[**its designated division**]** Missouri Medicaid audit and compliance unit.

8. The department or [its designated division] Missouri Medicaid audit and compliance unit shall have the authority with respect to any recipient of medical assistance benefits whose use has been restricted under subsection 7 of this section and who obtains or seeks to obtain medical assistance benefits from a provider other than one of the providers for designated services to terminate medical assistance benefits as defined by this chapter, where allowed by the provisions of the federal Social Security Act.

9. The department or [its designated division] Missouri Medicaid audit and compliance unit shall have the authority with respect to any provider who knowingly allows a recipient to violate subsection 7 of this section or who fails to report a known violation of subsection 7 of this section to the department of social services or [its designated division] Missouri Medicaid audit and compliance unit to terminate or otherwise sanction such provider's status as a participant in the medical assistance program. Any person making such a report shall not be civilly liable when the report is made in good faith.

208.165. The department or its designated division or unit shall have authority after forty-five days written notice to the affected provider to withhold from any payments that may be or become due to a provider of service under the medical assistance program such amounts as the department or its designated division or unit may determine are due to the state as a result of overpayments, cost settlements, disallowances, duplicate payments, fraud or abuse; provided that should a judicial tribunal, including the administrative hearing commission,

finally determine that all or part of such withholding is due to the provider of services, the judicial tribunal may, in its discretion, allow a reasonable rate of interest on such amount from the time of the withholding.

208.168. 1. Beginning July 1, 1983, in addition to those benefit payments for medical assistance for eligible needy persons authorized under the provisions of section 208.152, benefit payments for medical assistance may be made on behalf of those eligible needy persons who are unable to provide for it in whole or in part for adult day care and treatment to those persons who would require placement in an intermediate care facility or skilled nursing home as the latter two terms are defined by section 198.006.

2. Payments under this section shall be made on the basis of the reasonable cost of the care as reasonable cost of the services is defined and determined by the MO HealthNet division **[**of family services**]**.

208.175. 1. The "Drug Utilization Review Board" is hereby established within the MO HealthNet division and shall be composed of the following health care professionals who shall be appointed by the governor and whose appointment shall be subject to the advice and consent of the senate:

(1) Six physicians who shall include:

(a) Three physicians who hold the doctor of medicine degree and are active in medical practice;

(b) Two physicians who hold the doctor of osteopathy degree and are active in medical practice; and

(c) One physician who holds the doctor of medicine or the

doctor of osteopathy degree and is active in the practice of psychiatry;

(2) Six actively practicing pharmacists who shall include:

(a) Three pharmacists who hold bachelor of science degrees in pharmacy and are active as retail or patient care pharmacists;

(b) Two pharmacists who hold advanced clinical degrees in pharmacy and are active in the practice of pharmaceutical therapy and clinical pharmaceutical management; and

(c) One pharmacist who holds either a bachelor of science degree in pharmacy or an advanced clinical degree in pharmacy and is employed by a pharmaceutical manufacturer of Medicaid-approved formulary drugs; and

(3) One certified medical quality assurance registered nurse with an advanced degree.

2. The membership of the drug utilization review board shall include health care professionals who have recognized knowledge and expertise in one or more of the following:

(1) The clinically appropriate prescribing of covered outpatient drugs;

(2) The clinically appropriate dispensing and monitoring of covered outpatient drugs;

(3) Drug use review, evaluation and intervention;

(4) Medical quality assurance.

3. A chairperson shall be elected by the board members. The board shall meet at least once every ninety days. A quorum of eight members, including no fewer than three physicians and three pharmacists, shall be required for the board to act in its official capacity.

4. Members appointed pursuant to subsection 1 of this section shall serve four-year terms, except that of the original members, four shall be appointed for a term of two years, four shall be appointed for a term of three years and five shall be appointed for a term of four years. Members may be reappointed.

5. The members of the drug utilization review board or any regional advisory committee shall receive no compensation for their services other than reasonable expenses actually incurred in the performance of their official duties.

6. The drug utilization review board shall, either directly or through contracts between the MO HealthNet division and accredited health care educational institutions, state medical societies or state pharmacist associations or societies or other appropriate organizations, provide for educational outreach programs to educate practitioners on common drug therapy problems with the aim of improving prescribing and dispensing practices.

7. The drug utilization review board shall monitor drug usage and prescribing practices in the Medicaid program. The board shall conduct its activities in accordance with the requirements of subsection (g) of section 4401 of the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508). The board shall publish an educational newsletter to Missouri Medicaid providers as to its considered opinion of the proper usage of the Medicaid formulary. It shall advise providers of inappropriate drug utilization when it deems it appropriate to do so.

8. The drug utilization review board may provide advice on guidelines, policies, and procedures necessary to establish and maintain the Missouri Rx plan.

9. Office space and support personnel shall be provided by the MO HealthNet division [of medical services].

10. Subject to appropriations made specifically for that purpose, up to six regional advisory committees to the drug utilization review board may be appointed. Members of the regional advisory committees shall be physicians and pharmacists appointed by the drug utilization review board. Each such member of a regional advisory committee shall have recognized knowledge and expertise in one or more of the following:

(1) The clinically appropriate prescribing of covered outpatient drugs;

(2) The clinically appropriate dispensing and monitoring of covered outpatient drugs;

(3) Drug use review, evaluation, and intervention; or

(4) Medical quality assurance.

208.176. By December 1, 1992, the MO HealthNet division [of medical services] shall, either directly or through contract with a private organization, provide for a prospective review of drug therapy. The review shall include screening for potential drug therapy problems, duplication, contraindications, interactions, incorrect drug dosage, drug allergy, duration of therapy and clinical abuse or misuse.

208.180. 1. Payment of benefits hereunder shall be made monthly in advance, at such regular intervals as shall be determined by the family support division [of family services], directly to the recipient, or in the event of [his] such recipient's incapacity or disability, to [his] such recipient's legally appointed conservator, and except as provided in

subsection 2, in the case of a dependent child to the relative with whom he or she lives; provided, that payments for the cost of authorized inpatient hospital or nursing home care in behalf of an individual may be made after the care is received either during his or her lifetime or after his or her death to the person, firm, corporation, association, institution, or agency furnishing such care, and shall be considered as the equivalent of payment to the individual to whom such care was rendered. All incapacity or disability proceedings of persons applying for or receiving benefits under this law shall be carried out without fee or other expense when in the opinion of the probate division of the circuit court the person is unable to assume such expense. At the discretion of the court such a guardian or conservator may serve without bond.

2. Payment of benefits with respect to a dependent child may be made, pursuant to regulations of the family support division [of family services], to an individual, other than the relative with whom he or she lives, who is interested in or concerned with the welfare of the child, or who is furnishing food, living accommodations or other goods, services or items to or for the dependent child, in the following cases:

(1) Where the relative with whom the child lives has demonstrated an inability to manage funds to the extent that payments to him or her have not been or are not being used in the best interest of the child; or

(2) Where the relative has refused to participate in a work or training program to which he or she has been referred under section 208.042.

3. Whenever any recipient shall have died after the issuance of a benefit check to him, or on or after the date upon which a benefit check was due and payable to him, and before the same is endorsed or presented for payment by the recipient, the probate division of the circuit court of the county in which the recipient resided at the time of his or her death shall, on the filing of an affidavit by one of the next of kin, or creditor of the deceased recipient, and upon the court being satisfied as to the correctness of such affidavit, make an order authorizing and directing such next of kin, or creditor, to endorse and collect the check, which shall be paid upon presentation with a certified copy of the order attached to the check and the proceeds of which shall be applied upon the funeral expenses and the debts of the decedent, duly approved by the probate division of the circuit court, and it shall not be necessary that an administrator be appointed for the estate of the decedent in order to collect the benefit check. No cost shall be charged in such proceedings. Such affidavit filed by one of the next of kin, or creditor, shall state the name of the deceased recipient, the date of his or her death, the amount and number of such benefit check, the funeral expenses and debts owed by the decedent, and whether the decedent had any estate other than the unpaid benefit check and, in the event the decedent had an estate that requires administration, the provisions of this section shall not apply and the estate of the decedent shall be administered upon in the same manner as estates of other deceased persons.

208.182. 1. The family support division **[**of family services**]** shall establish pilot projects in St. Louis City and in

any county with a population of six hundred thousand or more, which shall provide for a system of electronic transfer of benefits to public assistance recipients. Such system shall allow recipients to obtain cash from automated teller machines or point of sale terminals. If less than the total amount of benefits is withdrawn, the recipient shall be given a receipt showing the current status of his or her account.

2. The disclosure of any information provided to a financial institution, business or vendor by the family support division **[**of family services pursuant to**]** under this section is prohibited. Such financial institution, business or vendor may not use or sell such information and may not divulge the information without a court order. Violation of this subsection is a class A misdemeanor.

3. Subject to appropriations and subject to receipt of waivers from the federal government to prevent the loss of any federal funds, the department of social services shall require the use of photographic identification on electronic benefit transfer cards issued to recipients in this system. Such photographic identification electronic benefit transfer card shall be in a form approved by the department of social services.

4. The family support division **[**of family services**]** shall promulgate rules and regulations necessary to implement the provisions of this section pursuant to section 660.017 and chapter 536.

5. The delivery of electronic benefits and the electronic eligibility verification, including, but not limited to, aid to families with dependent children (AFDC), women, infants and

children (WIC), early periodic screening diagnosis and treatment (EPSDT), food stamps, supplemental security income (SSI), including Medicaid, child support, and other programs, shall reside in one card that may be enabled by function from time to time in a convenient manner.

208.190. The family support division **[**of family services**]** is hereby directed to comply with the provisions of any act of Congress providing for the distribution and expenditure of funds of the United States appropriated by Congress for Social Security benefits, and to comply with any and all rules and regulations attached to or made a part of such appropriation act and not inconsistent with the constitution and laws of Missouri.

208.204. 1. The MO HealthNet division **[**of medical services**]** may administer the funds appropriated to the department of social services or any division of the department for payment of medical care provided to children in the legal custody of the department of social services or any division of the department.

2. Through judicial review or family support team meetings, the children's division shall determine which cases involve children in the system due exclusively to a need for mental health services, and identify the cases where no instance of abuse, neglect, or abandonment exists.

3. Within sixty days of a child being identified pursuant to subsection 2 of this section, an individualized service plan shall be developed by the applicable state agencies responsible for providing or paying for any and all appropriate and necessary services. The individualized service plan shall specifically identify which agencies are going to pay for, subject to

appropriations, and provide such services, and such plan shall be submitted to the court for approval. Services shall be provided in the least restrictive, most appropriate environment that meets the needs of the child including home, community-based treatment, and supports. The child's family shall actively participate in designing the individualized service plan for the child. The department of social services shall notify the appropriate judge of the child and shall submit the individualized service plan developed for approval by the judge. The child may be returned by the judge to the custody of the child's family.

4. When the children are returned to their family's custody and become the service responsibility of the department of mental health, the appropriate moneys to provide for the care of each child in each particular situation shall be billed to the department of social services by the department of mental health pursuant to a comprehensive financing plan jointly developed by the two departments.

208.210. 1. If at any time during the continuance of public assistance to any person, the recipient thereof, or the husband or wife of the recipient with whom he or she is living, is possessed or becomes possessed of any property or income in excess of the amount declared at the time of application or reinvestigation of his or her case and in such amount as would affect his or her needs or right to receive benefits, it shall be the duty of the recipient, or the husband or the wife of the recipient, to notify the **[**county welfare office**]** family support division of the receipt or possession of such property or income, and the family support division **[**of family services**]** may, after

investigation, either cancel the benefits or alter the amount thereof in accordance with the circumstances.

2. Any benefits paid when the recipient or **[**his**]** the recipient's spouse is in possession of such undeclared property or income shall be recoverable by the **[**division of family**]** department of social services as a debt due to the state. If during the life, or upon the death, of any person who is receiving or has received benefits, it is found that the recipient or **[**his**]** the recipient's spouse was possessed of any property or income in excess of the amount reported that would affect his or her needs or right to receive benefits, or if it be shown such benefits were obtained through misrepresentation, nondisclosure of material facts, or through mistake of fact, the amount of benefits, without interest, may be recovered from him or her or his or her estate by the **[**division of family**]** department of social services as a debt due the state.

3. The possession of undeclared property by a recipient or **[**his**]** a recipient's spouse with whom **[**he**]** the recipient is living shall be prima facie evidence of its ownership during the time benefits were granted, and the burden to prove otherwise shall be upon the recipient or **[**his**]** the recipient's legal representative.

4. The federal government shall be entitled to share in any amount collected under the provisions of this section, however, not to exceed the amount contributed by the federal government in each case. The amount due the United States shall be promptly paid or credited upon collection to the designated agency of the federal government by the **[**division of family**]** department of social services.

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

(1) "Data match", a method of comparing the department's information with that of another entity and identifying those records which appear in both files. This process is accomplished by a computerized comparison by which both the department and the entity utilize a computer readable electronic media format;

(2) "Department", the Missouri department of social services [or any division thereof];

(3) "Entity":

(a) Any insurance company as defined in chapter 375 or any public organization or agency transacting or doing the business of insurance; or

(b) Any health service corporation or health maintenance organization as defined in chapter 354 or any other provider of health services as defined in chapter 354;

(c) Any self-insured organization or business providing health services as defined in chapter 354; or

(d) Any third-party administrator (TPA), administrative services organization (ASO), or pharmacy benefit manager (PBM) transacting or doing business in Missouri or administering or processing claims or benefits, or both, for residents of Missouri;

(4) "Individual", any applicant or present or former participant receiving public assistance benefits under sections 208.151 to 208.159 [and section 208.162];

(5) "Insurance", any agreement, contract, policy plan or writing entered into voluntarily or by court or administrative

order providing for the payment of medical services or for the provision of medical care to or on behalf of an individual;

(6) "Request", any inquiry by the MO HealthNet division [of medical services] for the purpose of determining the existence of insurance where the department may have expended MO HealthNet benefits.

2. The department may enter into a contract with any entity, and the entity shall, upon request of the department of social services, inform the department of any records or information pertaining to the insurance of any individual.

3. The information which is required to be provided by the entity regarding an individual is limited to those insurance benefits that could have been claimed and paid by an insurance policy agreement or plan with respect to medical services or items which are otherwise covered under the MO HealthNet program.

4. A request for a data match made by the department pursuant to this section shall include sufficient information to identify each person named in the request in a form that is compatible with the record-keeping methods of the entity. Requests for information shall pertain to any individual or the person legally responsible for such individual and may be requested at a minimum of twice a year.

5. The department shall reimburse the entity which is requested to supply information as provided by this section for actual direct costs, based upon industry standards, incurred in furnishing the requested information and as set out in the contract. The department shall specify the time and manner in which information is to be delivered by the entity to the

department. No reimbursement will be provided for information requested by the department other than by means of a data match.

6. Any entity which has received a request from the department pursuant to this section shall provide the requested information in compliance with HIPPAA required transactions within sixty days of receipt of the request. Willful failure of an entity to provide the requested information within such period shall result in liability to the state for civil penalties of up to ten dollars for each day thereafter. The attorney general shall, upon request of the department, bring an action in a circuit court of competent jurisdiction to recover the civil penalty. The court shall determine the amount of the civil penalty to be assessed. A health insurance carrier, including instances where **[**they act**]** it acts in the capacity of an administrator of an ASO account, and a TPA acting in the capacity of an administrator for a fully insured or self-funded employer, is required to accept and respond to the HIPPAA ANSI standard transaction for the purpose of validating eligibility.

7. The director of the department shall establish guidelines to assure that the information furnished to any entity or obtained from any entity does not violate the laws pertaining to the confidentiality and privacy of an applicant or participant receiving MO HealthNet benefits. Any person disclosing confidential information for purposes other than set forth in this section shall be guilty of a class A misdemeanor.

8. The application for or the receipt of benefits under sections 208.151 to 208.159 **[**and section 208.162**]** shall be deemed consent by the individual to allow the department to request

information from any entity regarding insurance coverage of said person.

208.225. 1. To implement fully the provisions of section 208.152, the MO HealthNet division **[**of medical services**]** shall calculate the Medicaid per diem reimbursement rates of each nursing home participating in the Medicaid program as a provider of nursing home services based on its costs reported in the Title XIX cost report filed with the MO HealthNet division **[**of medical services**]** for its fiscal year as provided in subsection 2 of this section.

2. The recalculation of Medicaid rates to all Missouri facilities will be performed as follows: effective July 1, 2004, the department of social services shall use the Medicaid cost report containing adjusted costs for the facility fiscal year ending in 2001 and redetermine the allowable per-patient day costs for each facility. The department shall recalculate the class ceilings in the patient care, one hundred twenty percent of the median; ancillary, one hundred twenty percent of the median; and administration, one hundred ten percent of the median cost centers. Each facility shall receive as a rate increase one-third of the amount that is unpaid based on the recalculated cost determination.

208.300. The **[**division of aging of the department of social**]** department of health and senior services may establish a program under which elderly persons who are sixty years of age or older and others who have designated an elderly person as a beneficiary may volunteer their time and services to an in-home service or voluntary agency serving the elderly or to a

not-for-profit organization or agency which provides services that benefit the elderly which is approved by the division and receive credit for providing volunteer respite service, which credit may then be drawn upon by such elderly persons or designated elderly beneficiaries when they themselves or their families need such respite services. The division shall establish a registry of names of such volunteers and shall, monthly or as often as it deems necessary for efficient management of the program, credit each of such volunteers with the number of hours of service each has performed for organizations and agencies approved by the division. No person serving as a volunteer pursuant to any program established by the division under the provisions of this section shall be credited for more than ten hours of volunteer service under this program per week.

208.325. 1. Beginning October 1, 1994, the department of social services shall enroll AFDC recipients in the self-sufficiency program established by this section. The department may target AFDC households which meet at least one of the following criteria:

(1) Received AFDC benefits in at least eighteen out of the last thirty-six months; or

(2) Are parents under twenty-four years of age without a high school diploma or a high school equivalency certificate and have a limited work history; or

(3) Whose youngest child is sixteen years of age, or older; or

(4) Are currently eligible to receive benefits pursuant to

section 208.041, an assistance program for unemployed married parents.

2. The department shall, subject to appropriation, enroll in self-sufficiency pacts by July 1, 1996, the following AFDC households:

(1) Not fewer than fifteen percent of AFDC households who are required to participate in the FUTURES program under sections 208.405 and 208.410, and who are currently participating in the FUTURES program;

(2) Not fewer than five percent of AFDC households who are required to participate in the FUTURES program under sections 208.405 and 208.410, but who are currently not participating in the FUTURES program; and

(3) By October 1, 1997, not fewer than twenty-five percent of aid to families with dependent children recipients, excluding recipients who meet the following criteria and are exempt from mandatory participation in the family self-sufficiency program:

(a) Disabled individuals who meet the criteria for coverage under the federal Americans with Disabilities Act, P.L. 101-336, and are assessed as lacking the capacity to engage in full-time or part-time subsidized employment;

(b) Parents who are exclusively responsible for the full-time care of disabled children; and

(c) Other families excluded from mandatory participation in FUTURES by federal guidelines.

3. Upon enrollment in the family self-sufficiency program, a household shall receive an initial assessment of the family's educational, child care, employment, medical and other supportive

needs. There shall also be assessment of the recipient's skills, education and work experience and a review of other relevant circumstances. Each assessment shall be completed in consultation with the recipient and, if appropriate, each child whose needs are being assessed.

4. Family assessments shall be used to complete a family self-sufficiency pact in negotiation with the family. The family self-sufficiency pact shall identify a specific point in time, no longer than twenty-four months after the family enrolls in the self-sufficiency pact, when the family's primary self-sufficiency pact shall conclude. The self-sufficiency pact is subject to reassessment and may be extended for up to an additional twenty-four months, but the maximum term of any self-sufficiency pact shall not exceed a total of forty-eight months. Family self-sufficiency pacts should be completed and entered into within three months of the initial assessment.

5. The family support division **[**of family services**]** shall complete family self-sufficiency pact assessments and/or may contract with other agencies for this purpose, subject to appropriation.

6. Family self-sufficiency assessments shall be used to develop a family self-sufficiency pact after a meeting. The meeting participants shall include:

(1) A representative of the family support division **[**of family services**]**, who may be a case manager or other specially designated, trained and qualified person authorized to negotiate the family self-sufficiency pact and follow-up with the family and responsible state agencies to ensure that the

self-sufficiency pact is reviewed at least annually and, if necessary, revised as further assessments, experience, circumstances and resources require;

(2) The recipient and, if appropriate, another family member, assessment personnel or an individual interested in the family's welfare.

7. The family self-sufficiency pact shall:

(1) Be in writing and establish mutual state and family member obligations as part of a plan containing goals, objectives and timelines tailored to the needs of the family and leading to self-sufficiency;

(2) Identify available support services such as subsidized child care, medical services and transportation benefits during a transition period, to help ensure that the family will be less likely to return to public assistance.

8. The family self-sufficiency pact shall include a parent and child development plan to develop the skills and knowledge of adults in their role as parents to their children and partners of their spouses. Such plan shall include school participation records. The department of social services shall, in cooperation with the department of health and senior services, the department of mental health, and the "Parents as Teachers" program in the department of elementary and secondary education, develop or make available existing programs to be presented to persons enrolled in a family self-sufficiency pact.

9. A family enrolled in a family self-sufficiency pact may own or possess property as described in subdivision (6) of subsection 2 of section 208.010 with a value of five thousand

dollars instead of the one thousand dollars as set forth in subdivision (6) of subsection 2 of section 208.010.

10. A family receiving AFDC may own one automobile, which shall not be subject to property value limitations provided in section 208.010.

11. Subject to appropriations and necessary waivers, the department of social services may disregard from one-half to two-thirds of a recipient's gross earned income for job-related and other expenses necessary for a family to make the transition to self-sufficiency.

12. A recipient may request a review by the director of the family support division **[**of family services**]**, or **[**his**]** the director's designee, of the family self-sufficiency pact or any of its provisions that the recipient objects to because it is inappropriate. After receiving an informal review, a recipient who is still aggrieved may appeal the results of that review under the procedures in section 208.080.

13. The term of the family self-sufficiency pact may only be extended due to circumstances creating barriers to self-sufficiency and the family self-sufficiency pact may be updated and adjusted to identify and address the removal of these barriers to self-sufficiency.

14. Where the capacity of services does not meet the demand for the services, limited services may be substituted and the pact completion date extended until the necessary services become available for the participant. The pact shall be modified appropriately if the services are not delivered as a result of waiting lists or other delays.

15. The family support division [of family services] shall establish a training program for self-sufficiency pact case managers which shall include but not be limited to:

(1) Knowledge of public and private programs available to assist recipients to achieve self-sufficiency;

(2) Skills in facilitating recipient access to public and private programs; and

(3) Skills in motivating and in observing, listening and communicating.

16. The family support division [of family services] shall ensure that families enrolled in the family self-sufficiency program make full use of the federal earned income tax credit.

17. Failure to comply with any of the provisions of a self-sufficiency pact developed pursuant to this section shall result in a recalculation of the AFDC cash grant for the household without considering the needs of the caretaker recipient.

18. If a suspension of caretaker benefits is imposed, the recipient shall have the right to a review by the director of the family support division [of family services] or [his] the director's designee.

19. After completing the family self-sufficiency program, should a recipient who has previously received thirty-six months of aid to families with dependent children benefits again become eligible for aid to families with dependent children benefits, the cash grant amount shall be calculated without considering the needs of caretaker recipients. The limitations of this subsection shall not apply to any applicant who starts a

self-sufficiency pact on or before July 1, 1997, or to any applicant who has become disabled or is receiving or has received unemployment benefits since completion of a self-sufficiency program.

20. There shall be conducted a comprehensive evaluation of the family self-sufficiency program contained in the provisions of this act and the job opportunities and basic skills training program ("JOBS" or "FUTURES") as authorized by the provisions of sections 208.400 to 208.425. The evaluation shall be conducted by a competitively chosen independent and impartial contractor selected by the commissioner of the office of administration. The evaluation shall be based on specific, measurable data relating to those who participate successfully and unsuccessfully in these programs and a control group, factors which contributed to such success or failures, the structure of such programs and other areas. The evaluation shall include recommendations on whether such programs should be continued and suggested improvements in such programs. The first such evaluation shall be completed and reported to the governor and the general assembly by September 1, 1997. Future evaluations shall be completed every three years thereafter. In addition, in 1997, and every three years thereafter, the oversight division of the committee on legislative research shall complete an evaluation on general relief, child care and development block grants and social services block grants.

21. The director of the department of social services may promulgate rules and regulations, pursuant to section 660.017, and chapter 536 governing the use of family self-sufficiency

pacts in this program and in other programs, including programs for noncustodial parents of children receiving assistance.

22. The director of the department of social services shall apply to the United States Secretary of Health and Human Services for all waivers of requirements under federal law necessary to implement the provisions of this section with full federal participation. The provisions of this section shall be implemented, subject to appropriation, as waivers necessary to ensure continued federal participation are received.

208.337. 1. The division may deposit funds into an account on behalf of children whose custodial parent is a participant in the program authorized pursuant to the provisions of sections 208.400 to 208.425, and whose noncustodial parent is participating in a state job training and adult educational program approved by the <u>family support</u> division **[**of family services**]**. If agreed upon by the parties, funds may also be deposited for this purpose when the noncustodial parent terminates participation in the job training or educational program, until the custodial parent completes participation in the program authorized pursuant to the provisions of sections 208.400 to 208.425. The amount deposited for each child shall not exceed the portion of current child support paid by the noncustodial parent, to which the state of Missouri is entitled according to applicable state and federal laws. Money so received shall be governed by this section notwithstanding other state laws and regulations to the contrary.

2. Any money deposited by the division on behalf of a child, as provided in subsection 3 of this section, shall be

accounted for in the name of the child. Any money in the account of a child may be expended only for care or services for the child as agreed upon by both parents. The division shall, by rule adopted pursuant to section 454.400 and chapter 536, establish procedures for the establishment of the accounts, use, expenditure, and accounting of the money, and the protection of the money against theft, loss or misappropriation.

3. The division shall deposit money appropriated for the purposes of this section with the state treasurer. Any earnings attributable to the money in the account of a child shall be credited to that child's account.

4. Each child for whose benefit funds have been received by the division, and the parents of such child, shall be furnished annually by the division of **[**budget and**]** finance and administrative services of the department of social services with a statement listing all transactions involving the funds which have been deposited on the child's behalf, to include each receipt and disbursement, if any.

5. (1) The director of the department of social services shall apply for all waivers of requirements under federal law to implement the provisions of this section.

(2) This program shall not be implemented until the waiver has been obtained from the Secretary of the Department of Health and Human Services by the director of the department of social services.

208.345. The family support division **[**of family services**]**, with the cooperation of the division of vocational rehabilitation, shall establish a protocol where persons who

qualify for public assistance, including aid to families with dependent children, general relief and medical assistance, because of a disability may be directed to an appropriate federal agency to apply for other benefits. The family support division [of family services] shall also establish a procedure to identify applicants and recipients who may be entitled to supplement or supplant state benefits with other benefits through the Social Security Disability, Railroad Retirement, Supplemental Security Income, Veterans, Qualified Medicare Beneficiary and Specified Low Income Medicare Beneficiary and other programs.

208.400. As used in sections 208.400 to 208.425 and section 452.311, the following terms mean:

(1) "Case manager", an employee of the division having responsibility for the assessment of the participant's educational and employment needs and for assisting the participant in the development and execution of the service plan;

(2) "Community work experience program", as defined under section 201 of the Family Support Act of 1988 (P.L. 100-485), a program designed to enhance the employability of participants not otherwise able to obtain employment through providing training and an actual work experience;

(3) "Department", the department of social services;

(4) "Division", the family support division [of family services] of the department of social services;

(5) "Educational component", that portion of the Missouri job opportunities and basic skills training (JOBS) program which is intended to provide educational opportunities for participants. This component will include:

(a) "Adult basic education", any part-time or full-time program of instruction emphasizing reading, writing and computation skills, including day classes or night classes, which prepares a person to earn a Missouri high school equivalency certificate pursuant to section 161.093;

(b) "High school education", instruction in two or more grades not lower than the ninth nor higher than the twelfth grade which leads to the award of a diploma provided by any school to a person, to the extent that such instruction conforms to the requirements established pursuant to section 201 of P.L. 100-485 and federal regulations promulgated under said section;

(c) "Postsecondary education", any part-time or full-time program of instruction in a community college, college or university as allowed by regulations of the department of health and human services; and

(d) "Vocational education", any part-time or full-time program of instruction of less than baccalaureate grade, including day classes or night classes, which prepares a person for gainful employment;

(6) "Employment component", that portion of the Missouri JOBS program which is intended to provide employment counseling, training, and referral and employment opportunities for participants;

(7) "JOBS", the job opportunities and basic skills training program for AFDC recipients developed by the family support division **[**of family services**]**;

(8) "Participant", any recipient who is participating in the Missouri JOBS program;

(9) "Recipient", any person receiving aid to families with dependent children benefits under section 208.040 or 208.041;

(10) "Service plan", as defined in section 201 of the Family Support Act of 1988 (P.L. 100-485), an employability plan designating the services to be provided by the department and the activities in which the participant will be involved; and

(11) "Transitional child care services", child day care services provided, as defined in sections 301 and 302 of the Family Support Act of 1988 (P.L. 100-485), to participants who have become ineligible for such services due to the increased wages of or hours of employment.

208.405. 1. No later than October 1, 1990, the family support division **[**of family services**]** shall establish and operate a job opportunities and basic skills training (JOBS) program for AFDC recipients.

2. The family support division **[**of family services**]**, subject to appropriation, shall administer the job opportunities and basic skills training (JOBS) program as provided in Part F of Title IV of the Social Security Act.

3. Pursuant to Public Law 100-485, state funds expended for education, training and employment activities, including supportive services, to assist aid to families with dependent children recipients in becoming self-sufficient shall be no less than the level expended for such purposes in fiscal year 1986.

4. The department shall plan and coordinate all the JOBS program with the Missouri Job Training Coordinating Council, educational training and basic skills training and opportunities afforded under the provisions of this act with the department of

elementary and secondary education, the department of labor and industrial relations and the department of economic development so as not to duplicate any existing program and services now offered. The existing personnel in those departments together with such added personnel as may be authorized by appropriations shall be utilized in carrying out the provisions of this act.

208.471. 1. The department of social services shall make payments to those hospitals which have a Medicaid provider agreement with the department. Prior to June 30, 2002, the payment shall be in an annual, aggregate statewide amount which is at least the same as that paid in fiscal year 1991-1992 pursuant to rules in effect on August 30, 1991, under the federally approved state plan amendments.

2. Beginning July 1, 2002, sections 208.453 to 208.480 shall expire one hundred eighty days after the end of any state fiscal year in which the aggregate federal reimbursement allowance (FRA) assessment on hospitals is more than eighty-five percent of the sum of aggregate direct Medicaid payments, uninsured add-on payments and enhanced graduate medical education payments, unless during such one hundred eighty-day period, such payments or assessments are adjusted prospectively by the director of the department of social services to comply with the eighty-five percent test imposed by this subsection. Enhanced graduate medical education payments shall not be included in the calculation required by this subsection if the general assembly appropriates the state's share of such payments from a source other than the federal reimbursement allowance. For purposes of this section, direct Medicaid payments, uninsured add-on payments

and enhanced graduate medical education payments shall:

(1) Include direct Medicaid payments, uninsured add-on payments and enhanced graduate medical education payments as defined in state regulations as of July 1, 2000;

(2) Include payments that substantially replace or supplant the payments described in subdivision (1) of this subsection;

(3) Include new payments that supplement the payments described in subdivision (1) of this subsection; and

(4) Exclude payments and assessments of acute care hospitals with an unsponsored care ratio of at least sixty-five percent that are licensed to operate less than fifty inpatient beds in which the state's share of such payments are made by certification.

3. The MO HealthNet division **[**of medical services**]** may provide an alternative reimbursement for outpatient services. Other provisions of law to the contrary notwithstanding, the payment limits imposed by subdivision (2) of subsection 1 of section 208.152 shall not apply to such alternative reimbursement for outpatient services. Such alternative reimbursement may include enhanced payments or grants to hospital-sponsored clinics serving low income uninsured patients.

208.477. For each state fiscal year, if the criteria used to determine eligibility for Medicaid coverage under a Section 1115 waiver are more restrictive than those in place in state fiscal year 2003, the MO HealthNet division **[**of medical services**]** shall:

(1) Reduce the federal reimbursement allowance assessment for that fiscal year. The reduction shall equal the amount of

federal reimbursement allowance appropriated to fund the Section 1115 waiver in state fiscal year 2002 multiplied by the percentage decrease in Medicaid waiver enrollment as a result of using the more restrictive waiver eligibility standards; and

(2) Increase cost of the uninsured payments for that fiscal year. The increased payments shall offset the higher uninsured costs resulting from the use of more restrictive Medicaid waiver eligibility criteria, as determined by the department of social services.

208.533. 1. There is hereby established a twenty-member "Commission on the Special Health, Psychological and Social Needs of Minority Older Individuals" under the **[**division of aging**]** department of health and senior services. The commission shall consist of the following members:

(1) The directors of the departments of health and senior services, mental health and social services or their designees;

(2) The directors of the office of minority health and the **[**division of aging**]** department of health and senior services who shall serve as cochairs of the commission;

(3) Two members of the Missouri house of representatives, one from each major political party represented in the house of representatives, appointed by the speaker of the house who shall serve in a nonvoting, advisory capacity;

(4) Two members of the senate, one from each major political party represented in the senate, appointed by the president pro tem of the senate who shall serve in a nonvoting, advisory capacity;

(5) A representative of the office of the lieutenant

governor who shall serve in a nonvoting, advisory capacity; and

(6) Ten individuals appointed by the governor with the advice and consent of the senate who are currently working in the field of minority elderly health, psychological or social problems who have demonstrated expertise in one or more of the following areas: treatment of cardiovascular, cancer and diabetic conditions; nutrition; community-based health services; legal services; elderly consumer advocacy; gerontology or geriatrics; social work and other related services including housing. At least two of the individuals appointed by the governor shall be minority older individuals. The members appointed by the governor shall be residents of Missouri. Any vacancy on the commission shall be filled in the same manner as the original appointment.

2. Members appointed by the governor shall serve for three-year terms. Other members, except legislative members, shall serve for as long as they hold the position which made them eligible for appointment. Legislative members shall serve during their current term of office but may be reappointed.

3. Members of the commission shall not be compensated for their services, but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties. The office of administration and the departments of health and senior services, mental health and social services shall provide such support as the commission requires to aid it in the performance of its duties.

208.606. 1. The department of **[**social**]** <u>health and senior</u> services **[**through its division of aging**]**, in collaboration with

other state agencies, shall devise and implement a competent, thorough and ongoing public education program aimed at at-risk elderly persons. The purpose of this public education program is to identify regularly and inform fully elderly citizens of the existence, eligibility criteria, means of access and location of existing federal and state elderly service programs that would serve to alleviate personal situations that would otherwise lead to hunger and deterioration of health. Such programs would include, but are not limited to, the Qualified Medicare Beneficiary Program, the USDA **[**Food Stamp**]** Supplemental Nutrition Assistance Program, the Medical Assistance Spenddown Program, the availability of local food pantries, the availability of caseworkers to take application in the home for elderly service programs, and any other program that might become available to assist elderly persons in the future.

2. This public education program shall devise action steps with preference toward personal as opposed to mass media contacts. Among the methods to be used may be:

(1) Offering grants to local nonprofit service agencies to carry out public education programs;

(2) Producing brochures in easy-to-read language and formats using enlarged lettering;

(3) Holding information sessions at senior nutrition sites and with senior service agencies, such as the area agencies on aging, and with other agencies or service providers who serve the elderly;

(4) Organizing volunteer gatekeeper programs in communities with a high percentage of vulnerable elderly persons;

(5) Applying for a statewide Volunteers in Service to America [or the] (VISTA) Program to assist the state in organizing volunteer public education efforts.

208.609. 1. The departments of social services, elementary and secondary education, transportation, mental health, and health shall establish a task force which shall devise plans to integrate and coordinate existing transportation services such as school buses, OATS, Head Start, volunteer and other programs to take full advantage of existing transportation resources for the benefit of elderly and other needy populations.

2. The [division of aging] department of health and senior services shall apply for a statewide Volunteers in Service to America Program for the purpose of helping to organize volunteer transportation systems in various communities with large numbers of at-risk elderly persons.

3. The [division of aging] department of health and senior services shall devise models and provide training for senior housing facilities which seek to provide emergency food services to residents and neighbors.

208.621. The [division of aging] department of health and senior services shall apply for a statewide Volunteers in Service to America program to assist the division in organizing and coordinating volunteer resources in areas with a substantial high-risk elderly population, especially geared toward identifying at-risk elderly persons, personally contacting them with important information and friendly reassurance and to assist in volunteer transportation services.

208.636. Parents and guardians of uninsured children

eligible for the program established in sections 208.631 to 208.657 shall:

(1) Furnish to the department of social services the uninsured child's Social Security number or numbers, if the uninsured child has more than one such number;

(2) Cooperate with the department of social services in identifying and providing information to assist the state in pursuing any third-party insurance carrier who may be liable to pay for health care;

(3) Cooperate with the family support division of the department of social services**[**, division of child support enforcement**]** in establishing paternity and in obtaining support payments, including medical support;

(4) Demonstrate upon request their child's participation in wellness programs including immunizations and a periodic physical examination. This subdivision shall not apply to any child whose parent or legal guardian objects in writing to such wellness programs including immunizations and an annual physical examination because of religious beliefs or medical contraindications; and

(5) Demonstrate annually that their total net worth does not exceed two hundred fifty thousand dollars in total value.

208.780. As used in sections 208.780 to 208.798, the following terms shall mean:

(1) "Asset test", the asset limits as defined by the Medicare Prescription Drug Improvement and Modernization Act, P.L. 108-173;

(2) "Contractor", the person, partnership, or corporate

entity which has an approved contract with the department to administer the pharmaceutical assistance program established under sections 208.780 to 208.798 and this chapter;

(3) "Department", the department of social services;

(4) "Division", the MO HealthNet division of the department of social services[, division of medical services];

(5) "Enrollee", a resident of this state who meets the conditions specified in sections 208.780 to 208.798 and in department regulations relating to eligibility for participation in the Missouri Rx plan and whose application for enrollment in the Missouri Rx plan has been approved by the department;

(6) "Federal poverty guidelines", the federal poverty guidelines updated annually in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. Section 9902(2);

(7) "Liquid assets", assets used in the eligibility determination process as defined by the Medicare Modernization Act;

(8) "Medicaid dual eligible" or "dual eligible", a person who is eligible for both Medicare and Medicaid as defined by the Medicare Modernization Act;

(9) "Medicare Modernization Act" or "MMA", the Medicare Prescription Drug, Improvement and Modernization Act of 2003, P.L. 108-173;

(10) "Medicare Part D prescription drug benefit", the prescription benefit provided under the Medicare Modernization Act, as it may vary from one prescription drug plan to another;

(11) "Missouri resident", a person who has or intends to

have a fixed place of residence in Missouri, with the present intent of maintaining a permanent home in Missouri for the indefinite future;

(12) "Missouri Rx plan", the state pharmacy assistance program created in section 208.782, or the combination of state and federal programs providing services to the population described in section 208.784;

(13) "Participating pharmacy", a pharmacy that elects to participate as a pharmaceutical provider and enters into a participating network agreement with the department or contractor;

(14) "Prescription drug plan" or "PDP", nongovernmental drug plans under contract with the Center for Medicare and Medicaid Services to provide prescription benefits under the Medicare Modernization Act;

(15) "Prescription drugs", outpatient prescription drugs that have been approved as safe and effective by the United States Food and Drug Administration. Prescription drugs do not include experimental drugs or over-the-counter pharmaceutical products;

(16) "Program", the Missouri Rx plan created under sections 208.780 to 208.798.

209.010. The duties of the <u>family support</u> division **[**of family services**]** shall be to prepare and maintain a complete register of the blind persons within this state and to collate information concerning their physical condition, cause of blindness and such additional information as may be useful to the division in the performance of its other duties as herein

enumerated, and to investigate and report to the general assembly from time to time the condition of the blind within this state, with its recommendations concerning the best method of relief for the blind; to adopt such measures as the division may deem expedient for the prevention and cure of blindness; to establish and maintain at such places within this state as the division may deem expedient shops and workrooms for the employment of blind persons capable of useful labor, and to provide superintendence and other assistance therefor and instruction therein; to compensate the persons so employed in the manner and to the extent that the division shall deem proper; to provide such means for the sale of the products of the blind as the division shall deem expedient; to act as a bureau of information for the purpose of securing employment for the blind of this state elsewhere than in the shops and workrooms of the division and to this end the division is authorized to procure and furnish materials and tools and to furnish aid and assistance to blind persons engaged in home industries and to buy and sell the products of the blind wherever and however produced within this state; to provide for the temporary cost of the food, raiment and shelter of deserving blind persons engaged in useful labor; to ameliorate the condition of the blind by such means consistent with the provisions of sections 209.010 to 209.160 as the division may deem expedient; provided, however, that no part of the funds appropriated by the state shall be used for solely charitable purposes; the object and purpose of sections 209.010 to 209.160 being to encourage capable blind persons in the pursuit of useful labor and to provide for the prevention and cure of blindness.

[192.935.**]** 209.015. 1. There is hereby created in the state treasury the "Blindness Education, Screening and Treatment Program Fund". The fund shall consist of moneys donated pursuant to subsection 7 of section 301.020 and subsection 3 of section 302.171. Unexpended balances in the fund at the end of any fiscal year shall not be transferred to the general revenue fund or any other fund, the provisions of section 33.080 to the contrary notwithstanding.

2. Subject to the availability of funds in the blindness education, screening and treatment program fund, the department of social services shall develop a blindness education, screening and treatment program to provide blindness prevention education and to provide screening and treatment for persons who do not have adequate coverage for such services under a health benefit plan.

3. The program shall provide for:

(1) Public education about blindness and other eye conditions;

(2) Screenings and eye examinations to identify conditions that may cause blindness;

(3) Treatment procedures necessary to prevent blindness; and

(4) Any additional costs for vision examinations under section 167.195 that are not covered by existing public or private health insurance. Subject to appropriations, moneys from the fund shall be used to pay for those additional costs, provided that the costs do not exceed ninety-nine thousand dollars per year. Payment from the fund for vision examinations

under section 167.195 shall not exceed the allowable state Medicaid reimbursement amount for vision examinations.

4. The department may contract for program development with any department-approved nonprofit organization dealing with regional and community blindness education, eye donor and vision treatment services.

5. The department may adopt rules to prescribe eligibility requirements for the program.

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

209.020. **[**Said**]** The family support division **[**of family services**]** is authorized to receive and use for the purposes herein enumerated, or any of them, donations and bequests, and is authorized to expend such donations and bequests in such manner as it may deem proper within the limitations imposed by the donors thereof.

209.030. Every adult blind person, eighteen years of age or over, of good moral character who shall have been a resident of the state of Missouri for one year or more next preceding the time of making application for the pension herein provided and every adult blind person eighteen years of age or over who may have lost his or her sight while a bona fide resident of this state and who has been a continuous resident thereof since such loss of sight, shall be entitled to receive, when enrolled under the provisions of sections 209.010 to 209.160, an annual pension as provided for herein, payable in equal monthly installments, provided that no such person shall be entitled to a pension who

owns property or has an interest in property to the value of twenty thousand dollars or more, or if married and actually living with husband or wife, if the value of his or her interest in property, together with that of such husband or wife, exceeds said amount; provided, further, that in determining the total value of property owned, the real estate occupied by the blind person or spouse as the home, shall be excluded; or who has a sighted spouse resident in this state who upon the investigation of the family support division **[**of family services**]** may be found to be able to provide for the reasonable support of such applicant, or while publicly soliciting alms in any manner or through any artifice in any part of this state; and provided, further, that blind persons who are maintained in private or endowed institutions or who are inmates of a public institution shall not be entitled to the benefits of sections 209.010 to 209.160, except as a patient in a public medical institution; provided, benefits shall not be paid to a blind person under sixty-five years of age, who is a patient in an institution for mental diseases or tuberculosis. In order to comply with federal laws and regulations and state plans in making payments to or on behalf of mentally ill individuals sixty-five years of age, or over, who are patients in a state mental institution, the family support division **[**of family services**]** shall require agreements or other arrangements with the institution to provide a framework for cooperation and to assure that state plan requirements and federal laws and regulations relating to such payment will be observed. In the event the federal laws or regulations will not permit approval of the state plan for benefit payments to or on

behalf of an individual who is sixty-five years of age, or over, and is a patient in a state institution for mental diseases, this portion of this section shall be inoperative until approval of a state plan is obtained.

209.050. 1. Sections 209.010 to 209.160 shall not be so construed as to grant the benefits thereof to any blind person between the ages of eighteen and fifty years who has no occupation and who, being both physically and mentally capable of some useful occupation or of receiving vocational or other training, who refuses, for any reason, to engage in such useful occupation or to avail himself or herself of such vocational or other training.

2. The family support division **[**of family services**]** may grant its certificate admitting to the pension roll any applicant, otherwise qualified for a pension, who signifies his or her willingness and readiness to enter upon a course of vocational or other training; but in the event any such person fails for more than a reasonable time to enter upon such course of training, without good cause, the family support division **[**of family services**]** shall strike the name of such person from the blind pension roll.

209.060. Any person who desires the benefits of sections 209.010 to 209.160 shall file an application at the **[**county welfare**]** family support division office in the county of his or her residence, who is satisfied that the applicant comes within the provisions of sections 209.010 to 209.160 shall certify such fact to the family support division **[**of family services**]** at its office in Jefferson City, Missouri, which shall consider the

merits of such application and if approved by the family support division [of family services] such person shall be placed upon the blind pension rolls. All pensions payable under sections 209.010 to 209.160 shall begin on the date of the filing of the application therefor with the family support division [of family services]. And whenever it shall become known to the family support division [of family services] that any person whose name is on the blind pension roll is no longer qualified to receive a pension, after reasonable notice mailed to such person at his or her last known residence address the name of such person shall be stricken from the blind pension roll; provided further, any person who shall by gifts, secret disposition or other means dispose of any property in his or her possession in order to become wholly or in part within the provisions of sections 209.010 to 209.160 shall be deemed guilty of a misdemeanor.

209.070. It shall be the duty of the family support division [of family services] to prepare suitable blank application forms for the use of blind persons in making application for pensions, which shall contain such questions for applicant to answer and other matter as the division may deem appropriate to the end to be accomplished. All statements of an applicant contained on such application form shall be verified by the applicant and shall also be supported by the certificates of two disinterested and responsible householders of the county wherein applicant resides, who have known applicant for not less than two years next prior to date of such application, that such statements are true.

209.080. It shall be the duty of the family support

division [of family services] to make such regulations relative to the examination of applicants for pension, including the examination by an ophthalmologist, a physician skilled in disease of the eye, or an optometrist, designated or approved by the family support division [of family services] to make such examination and of all matters deemed necessary connected with the administration of this chapter. The examining ophthalmologist, a physician skilled in disease of the eye, or optometrist, shall certify in writing, upon forms provided by the family support division [of family services], the findings of the examination. The examination shall be provided for by the family support division [of family services] without charge to the applicant and shall be paid as an administrative expense. No person shall be entitled to the benefits of this chapter who shall refuse to submit to treatment or operation to effect a cure when recommended by competent medical authority and approved by the family support division [of family services], but upon submission to such treatment or operation the pension of applicant otherwise entitled thereto, shall be paid as in other cases: Provided further, that no applicant who is more than seventy-five years of age shall be required to submit to an operation to restore his or her vision in order to come under the provisions of this chapter, but may voluntarily submit to operation.

209.090. Monthly, the family support division [of family services] shall prepare a separate roll of persons entitled to receive blind pension, which roll shall be in triplicate, showing the name, post-office address, amount of pension payable, and

such other information as the family support division [of family services] may determine to be necessary. One copy of each roll shall be retained as a record by the family support division [of family services]. The original roll and one copy properly certified by the director, or [his] the director's authorized agent, shall be delivered to the commissioner of administration, who shall certify the same for payment and prepare one warrant for the total amount payable to the family support division [of family services], which warrant shall be attached to the copy of the roll and delivered to the state treasurer. The commissioner of administration shall retain the original roll as a record of his or her office. The state treasurer upon receiving said roll, warrant, and checks prepared by the family support division [of family services] for each person on said roll, shall sign said checks and deliver same to the family support division [of family services] for delivery to the proper payees.

209.100. The family support division [of family services] shall place the names of all persons certified by it for a pension under sections 209.010 to 209.160 upon a record to be kept in its office to be known as "The Blind Pension Roll" which shall contain also the residence, post-office address, date upon which the application for pension was filed with the judge of probate division of the circuit court or family support division [of family services], and the date the certificate was received by the family support division [of family services]; and the name of any person appearing upon the said blind pension roll shall be prima facie evidence of the right of such person to the pension herein provided.

209.110. Any person claiming the benefits of sections 209.010 to 209.160 who is aggrieved by the action of the family support division [of family services] on the question of such person's vision or as to his or her property or income, residential or moral qualifications to receive the benefits of sections 209.010 to 209.160, may appeal from its decision to the circuit court of his or her judicial circuit within ninety days from the decision complained of, by giving the division notice of such appeal; such appeal shall be had and tried in the circuit court de novo, and the judgment rendered thereupon shall be final; and if such judgment be in favor of appellant a certified copy of same shall be mailed to the family support division [of family services] at its office in Jefferson City.

209.240. 1. The family support division [of family services] shall, for the purpose of obtaining federal financial participation in aid to the blind payments, prepare a budget taking into consideration the necessary expenses in accordance with standards developed by the family support division [of family services] and the income and resources of the individual claiming aid to the blind. In preparing such budget the family support division [of family services] shall disregard the first eighty-five dollars per month of earned income plus one-half of earned income in excess of eighty-five dollars per month and for a period not in excess of twelve months, such additional amounts of other income and resources, in the case of an individual who has a plan for achieving self-support approved by the family support division [of family services], as may be necessary for the fulfillment of such plan. Every person passing the vision

test and having the other qualifications provided in this law shall be entitled to receive aid to the blind in the amount of one hundred ten dollars monthly. Any person disqualified to receive aid to the blind may apply for pension to the blind as provided in sections 209.010 to 209.160.

2. If the funds at the disposal or which may be obtained by the family support division [of family services] for the payment of benefits under this section shall at any time become insufficient to pay the full amount of benefits to each person entitled thereto, the amount of benefits of each one of such persons shall be reduced pro rata in proportion to such deficiency in the total amount available or to become available for such purpose.

3. Medical assistance for aid to the blind recipients shall be payable as provided in sections 208.151 to 208.158 without regard to any durational residence requirement for eligibility.

209.251. As used in sections 209.251 to 209.259, the following terms mean:

(1) "Adaptive telecommunications equipment", equipment that translates, enhances or otherwise transforms the receiving or sending of telecommunications into a form accessible to individuals with disabilities. The term adaptive telecommunications equipment includes adaptive telephone equipment and other types of adaptive devices such as computer input and output adaptions necessary for telecommunications access;

(2) "Basic telecommunications access line", a telecommunications line which provides service from the telephone

company central office to the customer's premises which enables the customer to originate and terminate long distance and local telecommunications;

(3) "Commission", the public service commission;

(4) "Consumer support and outreach", services that include, but are not limited to, assisting individuals with disabilities or their families or caregivers in the selection of the most appropriate adaptive telecommunications equipment to meet their needs, providing basic training and technical assistance in the installation and use of adaptive telecommunications equipment, and development and dissemination of information to increase awareness and use of adaptive telecommunications equipment;

(5) "Department", the department of **[**labor and industrial relations**]** elementary and secondary education;

(6) "Eligible subscriber", any individual who has been certified as deaf, hearing-impaired, speech-impaired or as having another disability that causes the inability to use telecommunications equipment and services by a licensed physician, audiologist, speech pathologist, hearing instrument specialist or a qualified agency;

(7) "Missouri assistive technology advisory council" or "council", the body which directs the Missouri assistive technology program pursuant to sections **[**191.850 to 191.865**]** 161.900 to 161.945;

(8) "Program administrator", the entity or entities designated to design the statewide telecommunications equipment distribution program, develop and implement the program policies and procedures, assure delivery of consumer support and outreach

and account for and pay all program expenses;

(9) "Surcharge", an additional charge which is to be paid by local exchange telephone company subscribers pursuant to the rate recovery mechanism established pursuant to sections 209.255, 209.257 and 209.259 in order to implement the programs described in sections 209.251 to 209.259;

(10) "Telecommunications", the transmission of any form of information including, but not limited to, voice, graphics, text, dynamic content, and data structures of all types whether they are in electronic, visual, auditory, optical or any other form;

(11) "Telecommunications device for the deaf" or "TDD", a telecommunications device capable of allowing deaf, hearing-impaired or speech-impaired individuals to transmit messages over basic telephone access lines by sending and receiving typed messages.

210.001. 1. The department of social services shall address the needs of homeless, dependent and neglected children in the supervision and custody of the children's division **[**of family services**]** and to their families-in-conflict by:

(1) Serving children and families as a unit in the least restrictive setting available and in close proximity to the family home, consistent with the best interests and special needs of the child;

(2) Insuring that appropriate social services are provided to the family unit both prior to the removal of the child from the home and after family reunification;

(3) Developing and implementing preventive and early intervention social services which have demonstrated the ability

to delay or reduce the need for out-of-home placements and ameliorate problems before they become chronic.

2. The department of social services shall fund only regional child assessment centers known as:

(1) The St. Louis City child assessment center;

(2) The St. Louis County child assessment center;

(3) The Jackson County child assessment center;

(4) The Buchanan County child assessment center;

(5) The Greene County child assessment center;

(6) The Boone County child assessment center;

(7) The Joplin child assessment center;

(8) The St. Charles County child assessment center;

(9) The Jefferson County child assessment center;

(10) The Pettis County child assessment center;

(11) The southeast Missouri child assessment center;

(12) The Camden County child assessment center;

(13) The Clay-Platte County child assessment center;

(14) The Lakes Area child assessment center;

(15) The Ozark Foothills child assessment center; and

(16) The North Central Missouri child assessment center;

provided the other approved assessment centers included in subdivisions (1) to (14) of this subsection submit to the department of social services a modified funding formula for all approved child assessment centers, which would require no additional state funding.

210.115. 1. When any physician, medical examiner, coroner, dentist, chiropractor, optometrist, podiatrist, resident, intern,

nurse, hospital or clinic personnel that are engaged in the examination, care, treatment or research of persons, and any other health practitioner, psychologist, mental health professional, social worker, day care center worker or other child-care worker, juvenile officer, probation or parole officer, jail or detention center personnel, teacher, principal or other school official, minister as provided by section 352.400, peace officer or law enforcement official, or other person with responsibility for the care of children has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or observes a child being subjected to conditions or circumstances which would reasonably result in abuse or neglect, that person shall immediately report to the division in accordance with the provisions of sections 210.109 to 210.183. No internal investigation shall be initiated until such a report has been made. As used in this section, the term "abuse" is not limited to abuse inflicted by a person responsible for the child's care, custody and control as specified in section 210.110, but shall also include abuse inflicted by any other person.

2. If two or more members of a medical institution who are required to report jointly have knowledge of a known or suspected instance of child abuse or neglect, a single report may be made by a designated member of that medical team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter immediately make the report. Nothing in this section, however, is meant to preclude any person from reporting abuse or neglect.

3. The reporting requirements under this section are individual, and no supervisor or administrator may impede or inhibit any reporting under this section. No person making a report under this section shall be subject to any sanction, including any adverse employment action, for making such report. Every employer shall ensure that any employee required to report pursuant to subsection 1 of this section has immediate and unrestricted access to communications technology necessary to make an immediate report and is temporarily relieved of other work duties for such time as is required to make any report required under subsection 1 of this section.

4. Notwithstanding any other provision of sections 210.109 to 210.183, any child who does not receive specified medical treatment by reason of the legitimate practice of the religious belief of the child's parents, guardian, or others legally responsible for the child, for that reason alone, shall not be found to be an abused or neglected child, and such parents, guardian or other persons legally responsible for the child shall not be entered into the central registry. However, the division may accept reports concerning such a child and may subsequently investigate or conduct a family assessment as a result of that report. Such an exception shall not limit the administrative or judicial authority of the state to ensure that medical services are provided to the child when the child's health requires it.

5. In addition to those persons and officials required to report actual or suspected abuse or neglect, any other person may report in accordance with sections 210.109 to 210.183 if such person has reasonable cause to suspect that a child has been or

may be subjected to abuse or neglect or observes a child being subjected to conditions or circumstances which would reasonably result in abuse or neglect.

6. Any person or official required to report pursuant to this section, including employees of the division, who has probable cause to suspect that a child who is or may be under the age of eighteen, who is eligible to receive a certificate of live birth, has died shall report that fact to the appropriate medical examiner or coroner. If, upon review of the circumstances and medical information, the medical examiner or coroner determines that the child died of natural causes while under medical care for an established natural disease, the coroner, medical examiner or physician shall notify the division of the child's death and that the child's attending physician shall be signing the death certificate. In all other cases, the medical examiner or coroner shall accept the report for investigation, shall immediately notify the division of the child's death as required in section 58.452 and shall report the findings to the child fatality review panel established pursuant to section 210.192.

7. Any person or individual required to report may also report the suspicion of abuse or neglect to any law enforcement agency or juvenile office. Such report shall not, however, take the place of reporting to the division.

8. If an individual required to report suspected instances of abuse or neglect pursuant to this section has reason to believe that the victim of such abuse or neglect is a resident of another state or was injured as a result of an act which occurred in another state, the person required to report such abuse or

neglect may, in lieu of reporting to the Missouri children's division [of family services], make such a report to the child protection agency of the other state with the authority to receive such reports pursuant to the laws of such other state. If such agency accepts the report, no report is required to be made, but may be made, to the children's division.

210.165. 1. Any person violating any provision of sections 210.110 to 210.165 is guilty of a class A misdemeanor.

2. Any person who intentionally files a false report of child abuse or neglect shall be guilty of a class A misdemeanor.

3. Every person who has been previously convicted of making a false report to the children's division or its predecessor agency, the division of family services, and who is subsequently convicted of making a false report under subsection 2 of this section is guilty of a class D felony and shall be punished as provided by law.

4. Evidence of prior convictions of false reporting shall be heard by the court, out of the hearing of the jury, prior to the submission of the case to the jury, and the court shall determine the existence of the prior convictions.

210.166. The children's division [of family services], any juvenile officer, any physician licensed under chapter 334, any hospital or other health care institution, and any other person or institution authorized by state or federal law to provide medical care may bring an action in the circuit court in the county where any child under eighteen years of age resides or is located, alleging the child is suffering from the denial or deprivation, by those responsible for the care, custody, and

control of the child, of medical or surgical treatment or intervention which is necessary to remedy or ameliorate a medical condition which is life-threatening or causes injury. Those responsible for the care, custody and control of the child include, but is not limited to, the parents or guardian of the child, other members of the child's household, or those exercising supervision over a child for any part of a twenty-four-hour day. A petition filed under this section shall be expedited by the court involved in every manner practicable, including, but not limited to, giving such petition priority over all other matters on the court's docket and holding a hearing, at which the parent, guardian or other person having authority to consent to the medical care in question shall, after being notified thereof, be given the opportunity to be heard, and issuing a ruling as expeditiously as necessary when the child's condition is subject to immediate deterioration. Any circuit or associate circuit judge of this state shall have the authority to ensure that medical services are provided to the child when the child's health requires it.

210.167. If an investigation conducted by the children's division **[**of family services pursuant to**]** under section 210.145 reveals that the only basis for action involves a question of an alleged violation of section 167.031, then the local office of the division shall send the report to the school district in which the child resides. The school district shall immediately refer all private, parochial, parish or home school matters to the prosecuting attorney of the county wherein the child legally resides. The school district may refer public school violations

of section 167.031 to the prosecuting attorney.

210.192. 1. The prosecuting attorney or the circuit attorney shall impanel a child fatality review panel for the county or city not within a county in which he or she serves to investigate the deaths of children under the age of eighteen years, who are eligible to receive a certificate of live birth. The panel shall be formed and shall operate according to the rules, guidelines and protocols provided by the department of social services.

2. The panel shall include, but shall not be limited to, the following:

(1) The prosecuting or circuit attorney;

(2) The coroner or medical examiner for the county or city not within a county;

(3) Law enforcement personnel in the county or city not within a county;

(4) A representative from the children's division **[**of family services**]**;

(5) A provider of public health care services;

(6) A representative of the juvenile court;

(7) A provider of emergency medical services.

3. The prosecuting or circuit attorney shall organize the panel and shall call the first organizational meeting of the panel. The panel shall elect a chairman who shall convene the panel to meet to review all deaths of children under the age of eighteen years, who are eligible to receive a certificate of live birth, which meet guidelines for review as set forth by the department of social services. In addition, the panel may review

at its own discretion any child death reported to it by the medical examiner or coroner, even if it does not meet criteria for review as set forth by the department. The panel shall issue a final report, which shall be a public record, of each investigation to the department of social services, state technical assistance team and to the director of the department of health and senior services. The final report shall include a completed summary report form. The form shall be developed by the director of the department of social services in consultation with the director of the department of health and senior services. The department of health and senior services shall analyze the child fatality review panel reports and periodically prepare epidemiological reports which describe the incidence, causes, location and other factors pertaining to childhood deaths. The department of health and senior services and department of social services shall make recommendations and develop programs to prevent childhood injuries and deaths.

4. The child fatality review panel shall enjoy such official immunity as exists at common law.

210.196. 1. The director of the department of health and senior services, in consultation with the director of the department of social services, shall promulgate rules, guidelines and protocols for hospitals and physicians to use to help them to identify suspicious deaths of children under the age of eighteen years, who are eligible to receive a certificate of live birth.

2. The director of the department of health and senior services shall promulgate rules for the certification of child death pathologists and shall develop protocols for such

pathologists. A certified child death pathologist shall be a board-certified forensic pathologist or a board-certified pathologist who through special training or experience is deemed qualified in the area of child fatalities by the department of health and senior services.

3. Except as provided in section 630.167, any hospital, physician, medical professional, mental health professional, or department of mental health facility shall disclose upon request all records, medical or social, of any child eligible to receive a certificate of live birth under the age of eighteen who has died to the coroner or medical examiner, children's division **[**of family services**]** representative, or public health representative who is a member of the local child fatality review panel established pursuant to section 210.192 to investigate the child's death. Any legally recognized privileged communication, except that between attorney and client, shall not apply to situations involving the death of a child under the age of eighteen years, who is eligible to receive a certificate of live birth.

210.254. 1. Child-care facilities operated by religious organizations pursuant to the exempt status recognized in subdivision (5) of section 210.211 shall upon enrollment of any child provide the parent or guardian enrolling the child two copies of a notice of parental responsibility, one copy of which shall be retained in the files of the facility after the enrolling parent acknowledges, by signature, having read and accepted the information contained therein.

2. The notice of parental responsibility shall include the

following:

(1) Notification that the child-care facility is exempt as a religious organization from state licensing and therefore not inspected or supervised by the department of health and senior services other than as provided herein and that the facility has been inspected by those designated in section 210.252 and is complying with the fire, health and sanitation requirements of sections 210.252 to 210.257;

(2) The names, addresses and telephone numbers of agencies and authorities which inspect the facility for fire, health and safety and the date of the most recent inspection by each;

(3) The staff/child ratios for enrolled children under two years of age, for children ages two to four and for those five years of age and older as required by the department of health and senior services regulations in licensed facilities, the standard ratio of staff to number of children for each age level maintained in the exempt facility, and the total number of children to be enrolled by the facility;

(4) Notification that background checks have been conducted on each individual caregiver and all other personnel at the facility. The background check shall be conducted upon employment and every two years thereafter on each individual caregiver and all other personnel at the facility. Such background check shall include a screening for child abuse or neglect through the children's division **[**of family services**]**, and a criminal record review through the Missouri highway patrol pursuant to section 43.540. The fee for the criminal record review shall be limited to the actual costs incurred by the

Missouri highway patrol in conducting such review not to exceed ten dollars;

(5) The disciplinary philosophy and policies of the child-care facility; and

(6) The educational philosophy and policies of the child-care facility.

3. A copy of notice of parental responsibility, signed by the principal operating officer of the exempt child-care facility and the individual primarily responsible for the religious organization conducting the child-care facility and copies of the annual fire and safety inspections shall be filed annually during the month of August with the director of the department of health and senior services. Exempt child-care facilities which begin operation after August 28, 1993, shall file such notice at least five days prior to starting to operate.

210.481. As used in sections 210.481 to 210.536, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Child", any individual under eighteen years of age or in the custody of the division;

(2) "Child placing agency", any person, other than the parents, who places a child outside the home of the child's parents or guardian, or advertises or holds himself forth as performing such services, but excluding the attorney, physician, or clergyman of the parents;

(3) "Division", the children's division **[**of family services**]** of the department of social services of the state of Missouri;

(4) "Foster home", a private residence of one or more family members providing twenty-four-hour care to one or more but less than seven children who are unattended by parent or guardian and who are unrelated to either foster parent by blood, marriage, or adoption;

(5) "Guardian", the person designated by a court of competent jurisdiction as the "guardian of the person of a minor" or "guardian of the person and conservator of the estate of a minor";

(6) "License", the document issued by the division in accordance with the applicable provisions of sections 210.481 to 210.536 to a foster home, residential care facility, or child placing agency which authorizes the foster home, residential care facility, or child placing agency to operate its program in accordance with the applicable provisions of sections 210.481 to 210.536 and rules issued pursuant thereto;

(7) "Person", any individual, firm, corporation, partnership, association, agency, or an incorporated or unincorporated organization, regardless of the name used;

(8) "Provisional license", the document issued by the division in accordance with the applicable provisions of sections 210.481 to 210.536 to a foster home, residential care facility, or child placing agency which is not currently meeting requirements for full licensure;

(9) "Related", any of the following by blood, marriage, or adoption: Parent, grandparent, brother, sister, half-brother, half-sister, stepparent, stepbrother, stepsister, uncle, aunt, or first cousin;

(10) "Residential care facility", a facility providing twenty-four-hour care in a group setting to children who are unrelated to the person operating the facility and who are unattended by a parent or guardian.

210.536. 1. The cost of foster care shall be paid by the children's division **[**of family services pursuant to**]** under chapter 207, except that the court shall evaluate the ability of parents to pay part or all of the cost for such care, and shall order such payment to the department of social services.

2. The court may effectuate such order against any asset of the parent for failure to provide part or all of the cost of foster care according to the court order; provided further, that any assignment, attachment, garnishment, or lien against such assets shall be served upon the person in possession of the assets or shall be recorded in the office of the recorder of deeds in the county in which the parent resides or in which the asset is located. The department of social services may contract on a contingency fee basis with private attorneys for the collection and enforcement of orders against such assets. Any such third party payment shall be paid directly to the department of social services.

210.537. The children's division **[**of family services**]** shall cooperate with and shall help promote foster parent associations in each county. The children's division **[**of family services**]** shall provide county foster parent associations with data, information and guidelines on the obligations, responsibilities and opportunities of foster parenting and shall keep the associations and members apprised of changes in laws and

regulations relevant to foster parenting.

210.543. The children's division [of family services] shall train and license a separate category of foster parents who are able to provide special care and supervision to foster children who have special needs because of a history of sexual abuse, serious physical abuse, or severe chronic neglect. The training received by such specialized foster parents shall be in addition to the training required in section 210.540. Fiscal incentives for training and/or longevity may be provided by the division, subject to appropriation. The division shall place foster children with such specialized foster parents subject to available funds.

210.545. 1. The children's division [of family services] shall establish reasonably accessible respite care facilities which may be utilized by foster parents licensed by the division. Such licensed foster parents shall be permitted to leave agency foster children in the respite care facilities for periods of time determined jointly by the foster parent and the division and subject to available funds.

2. Such respite care facilities may be licensed day care centers or residential treatment centers who have contracted with the division to provide such services. Licensed foster homes may also be designated as respite care facilities.

3. The children's division [of family services] shall promulgate rules and regulations necessary to implement the provisions of this section. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the

provisions of section 536.024.

210.551. The children's division [of family services] shall, by January 1, 1988, develop a procedure by which foster parents may appeal adverse decisions affecting their rights made by the division. Such procedure shall be mutually agreed upon by the division and an organization of foster parents with whom they shall consult.

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

(1) "Child", any child placed in the legal custody of the division under chapter 211;

(2) "Division", the children's division [of family services] of the department of social services of the state of Missouri;

(3) "Money", any legal tender, note, draft, certificate of deposit, stocks, bond or check;

(4) "Vested right", a legal right that is more than a mere expectancy and may be reduced to a present monetary value.

2. The child, the child's parents, any fiduciary or any representative payee holding or receiving money that are vested rights solely for or on behalf of a child are jointly and severally liable for funds expended by the division to or on behalf of the child. The liability of any person, except a parent of the child, shall be limited to the money received in his or her fiduciary or representative capacity. The Missouri state government shall not require a trustee or a financial institution acting as a trustee to exercise any discretionary powers in the operation of a trust.

3. The division may accept an appointment to serve as representative payee or fiduciary, or in a similar capacity for payments to a child under any public or private benefit arrangement. Money so received shall be governed by this section to the extent that laws and regulations governing payment of such benefits provide otherwise.

4. Any money received by the division on behalf of a child shall be accounted for in the name of the child. Any money in the account of a child may be expended by the division for care or services for the child. The division shall by rule adopted under chapter 536 establish procedures for the accounting of the money and the protection of the money against theft, loss or misappropriation.

5. The division shall deposit money with a financial institution. Any earnings attributable to the money in the account of a child shall be credited to that child's account. The division shall receive bids from banking corporations, associations or trust companies which desire to be selected as depositories of children's moneys for the division.

6. The division may accept funds which a parent, guardian or other person wishes to provide for the use or benefit of the child. The use and deposit of such funds shall be governed by this section and any additional directions given by the provider of the funds.

7. Each child for whose benefit funds have been received by the division and the guardian ad litem of such child shall be furnished annually with a statement listing all transactions involving the funds which have been deposited on the child's

behalf, to include each receipt and disbursement.

8. The division shall use all proper diligence to dispose of the balance of money accumulated in the child's account when the child is released from the care and custody of the division or the child dies. When the child is deceased the balance shall be disposed of as provided by law for descent and distribution. If, after the division has diligently used such methods and means as considered reasonable to refund such funds, there shall remain any money, the owner of which is unknown to the division, or if known, cannot be located by the division, in each and every such instance such money shall escheat and vest in the state of Missouri, and the director and officials of the division shall pay the same to the state director of the department of revenue, taking a receipt therefor, who shall deposit the money in the state treasury to be credited to a fund to be designated as "escheat".

9. Within five years after money has been paid into the state treasury, any person who appears and claims the money may file a petition in the circuit court of Cole County, Missouri, stating the nature of the claim and praying that such money be paid to him. A copy of the petition shall be served upon the director of the department of revenue who shall file an answer to the same. The court shall proceed to examine the claim and the allegations and proof, and if it finds that such person is entitled to any money so paid into the state treasury, it shall order the commissioner of administration to issue a warrant on the state treasurer for the amount of such claim, but without interest or costs. A certified copy of the order shall be

sufficient voucher for issuing a warrant; provided, that either party may appeal from the decision of the court in the same manner as provided by law in other civil actions.

10. All moneys paid into the state treasury under the provisions of this section after remaining there unclaimed for five years shall escheat and vest absolutely in the state and be credited to the state treasury, and all persons shall be forever barred and precluded from setting up title or claim to any such funds.

11. Nothing in this section shall be deemed to apply to funds regularly due the state of Missouri for the support and maintenance of children in the care and custody of the division or collected by the state of Missouri as reimbursement for state funds expended on behalf of the child.

210.720. 1. In the case of a child who has been placed in the custody of the children's division **[**of family services**]** in accordance with subdivision (17) of subsection 1 of section 207.020 or another authorized agency by a court or who has been placed in foster care by a court, every six months after the placement, the foster family, group home, agency, or child care institution with which the child is placed shall file with the court a written report on the status of the child. The court shall review the report and shall hold a permanency hearing within twelve months of initial placement and at least annually thereafter. The permanency hearing shall be for the purpose of determining in accordance with the best interests of the child a permanent plan for the placement of the child, including whether or not the child should be continued in foster care or whether

the child should be returned to a parent, guardian or relative, or whether or not proceedings should be instituted by either the juvenile officer or the division to terminate parental rights and legally free such child for adoption.

2. In such permanency hearings the court shall consider all relevant factors including:

(1) The interaction and interrelationship of the child with the child's foster parents, parents, siblings, and any other person who may significantly affect the child's best interests;

(2) The child's adjustment to his or her foster home, school and community;

(3) The mental and physical health of all individuals involved, including any history of abuse of any individuals involved. If the child is in the care of an authorized agency based on an allegation that the child has abused another child and the court determines that such abuse occurred, the court shall not return the child to or permit the child to reside in any residence located within one thousand feet of the residence of the abused child, or any child care facility or school that the abused child attends, until the abused child reaches eighteen years of age. The prohibitions of this subsection shall not apply where the alleged abuse occurred between siblings; and

(4) The needs of the child for a continuing relationship with the child's parents and the ability and willingness of parents to actively perform their functions as mother and father for the needs of the child.

3. The judge shall make written findings of fact and conclusions of law in any order pertaining to the placement of

the child.

210.829. 1. The circuit court has jurisdiction of an action brought under sections 210.817 to 210.852. The action may be joined by separate document with an action for dissolution of marriage, annulment, separate maintenance, support, custody or visitation, except that in any action instituted at the request of the family support division [of child support enforcement] by a prosecuting or circuit attorney or attorney under contract with such division, if an action for dissolution, annulment, separate maintenance, custody or visitation is joined hereunder, it shall be severed upon request. Failure to join an action for reimbursement of necessaries provided with an action brought under sections 210.817 to 210.852 shall not be a bar to subsequently bringing such an action for reimbursement of necessaries provided.

2. A person who has sexual intercourse in this state thereby submits to the jurisdiction of the courts of this state to an action brought under sections 210.817 to 210.852 with respect to a child who may have been conceived by that act of intercourse. In addition to any other method provided by rule or statute, including sections 506.160 and 506.510, personal jurisdiction may be acquired by personal service of summons outside this state or by certified mail with proof of actual receipt.

3. Notwithstanding subsection 2 of this section, personal jurisdiction may be asserted over any person if there is any basis consistent with the constitution of this state or the United States.

4. An action brought under sections 210.817 to 210.852 may be brought in the county in which the child resides, the mother resides, or the alleged father resides or is found or, if the father is deceased, in which proceedings for probate of his or her estate have been or could be commenced.

210.830. The child shall be made a party to any action commenced under sections 210.817 to 210.852. If he or she is a minor, he or she may be represented by a next friend appointed for him or her for any such action. The child's mother or father or the family support division **[**of child support enforcement**]** or any person having physical or legal custody of the child may represent him or her as his or her next friend. A guardian ad litem shall be appointed for the child only if child abuse or neglect is alleged, or if the child is named as a defendant, or if the court determines that the interests of the child and his or her next friend are in conflict. The natural mother, each man presumed to be the father under section 210.822, and each man alleged to be the natural father, shall be made parties or, if not subject to the jurisdiction of the court, shall be given notice of the action in a manner prescribed by the court and an opportunity to be heard. The court may align the parties.

210.834. 1. The court may, and upon request of any party shall require the child, mother, alleged father, any presumed father who is a party to the action, and any male witness who testifies or shall testify about his sexual relations with the mother at the possible time of conception, to submit to blood tests. The tests shall be performed by an expert as defined in subsection 7 of this section.

2. The court, upon reasonable request by a party, may order that independent tests be performed by other experts as defined in this section.

3. If any party refuses to submit to blood tests ordered by the court pursuant to subsection 1 or 2 of this section, such refusal shall constitute civil contempt of court and shall be admissible as evidence in the action. In addition, upon motion and reasonable notice to the party refusing to submit to blood tests, the court shall, except for good cause shown, enter an order striking the party's pleadings and rendering a judgment by default on the issue of the existence of the parent-and-child relationship.

4. Whenever the court finds that the results of the blood tests show that a person presumed or alleged to be the father of the child is not the father of such child, such evidence shall be conclusive of nonpaternity and the court shall dismiss the action as to that party, and the cost of such blood tests shall be assessed against the party instituting the action unless the family support division **[**of child support enforcement**]**, through a prosecuting attorney or circuit attorney or other attorney under contract with such division, is a party to such action, in which case the cost of such blood tests shall be assessed against the state. The court shall order the state to pay reasonable attorney's fees for counsel and the costs of any blood tests where such blood tests show that the person presumed or alleged to be the father of the child is not the father of such child and the state proceeds further in an action pursuant to sections 210.817 to 210.852 to attempt to establish that such person is

the father of the child.

5. Certified documentation of the chain of custody of the blood or tissue specimens is competent evidence to establish such chain of custody. An expert's report shall be admitted at trial as evidence of the test results stated therein without the need for foundation testimony or other proof of authenticity or accuracy, unless a written motion containing specific factual allegations challenging the testing procedures, the chain of custody of the blood or tissue specimens, or the results has been filed and served on each party, and the motion is sustained by the court or an administrative agency not less than thirty days before the trial.

6. The provisions of subsection 5 of this section shall also apply when the blood tests were not ordered by the court, if the court finds that the tests were conducted by an expert as defined in subsection 7 of this section.

7. As used in sections 210.817 to 210.852, the term "expert" shall include, but not be limited to, a person who performs or analyzes a genetic test of a type generally acknowledged as reliable by accreditation bodies designated by the secretary of the Department of Health and Human Services pursuant to 42 U.S.C. 666(a) and performed by a laboratory approved by such accreditation bodies.

210.843. 1. If the existence of a parent and child relationship is declared, and a duty of support has been established pursuant to sections 210.817 to 210.852, the support obligation may be enforced in the same or in other appropriate proceedings by the mother, the child, the <u>family support</u> division

[of child support enforcement], or any other public agency that has furnished or may furnish the reasonable expenses of pregnancy, confinement, education, support, or funeral, or by any other person, including a private agency, to the extent he or she has furnished or is furnishing these expenses.

2. The court shall order that support payments be made to the clerk of the circuit court as trustee for remittance to the person entitled to receive the payments, or where that person has assigned his or her support rights to the family support division [of family services pursuant to] under section 208.040 as trustee for remittance to the division, as long as the trusteeship remains in effect. Effective October 1, 1999, the court shall order support payments to be made to the family support payment center as required in section 454.530 as trustee for remittance to the person entitled to receive the payments.

3. Willful failure to obey any judgment or order of the court entered pursuant to this section is a civil contempt of court. Section 452.350 applies to support orders entered pursuant to this section, and all administrative and judicial remedies for the enforcements of judgments shall apply.

210.846. Notwithstanding any other law concerning public hearings and records, any hearing or trial held under sections 210.817 to 210.852 shall be held in closed court without admittance of any person other than those necessary to the action or proceeding. All papers and records, other than the interlocutory or final judgment, pertaining to the action or proceeding, whether part of the permanent record of the court, are subject to inspection only by the prosecuting or circuit

attorney or attorney under contract with the family support division [of child support enforcement] or upon the consent of the court and all interested persons, or in exceptional cases only upon order of the court for good cause shown.

210.870. 1. There is hereby established the "Juvenile Information Governance Commission".

2. The commission shall be composed of the following members:

(1) The director of the department of mental health;

(2) The director of the department of health and senior services;

(3) The commissioner of education;

(4) The director of the department of social services;

(5) The director of the children's division [of family services] of the department of social services;

(6) The director of the division of youth services of the department of social services;

(7) The state courts administrator;

(8) The superintendent of the highway patrol;

(9) The chief information officer of the office of information technology of the office of administration;

(10) One judge who hears juvenile cases in a circuit comprised of one county of the first classification, appointed by the chief justice of the supreme court;

(11) One judge who hears juvenile cases in a circuit comprised of more than one county, appointed by the chief justice of the supreme court;

(12) One juvenile officer representing a circuit comprised

of one county of the first classification, appointed by the chief justice of the supreme court;

(13) One juvenile officer representing a circuit comprised of more than one county, appointed by the chief justice of the supreme court.

3. The commission shall authorize categories of information to be shared between executive agencies and juvenile and family divisions of the circuit courts pursuant to section 210.865. The commission shall provide vision, strategy, policy approval and oversight for development and implementation of agency, law enforcement and juvenile and family court information sharing. The commission may appoint subcommittees to address technical and policy issues associated with information sharing, communication, development and implementation.

4. The state courts administrator or a designee shall chair the commission.

5. The commission shall meet as determined by the chair but not less than semiannually. A majority of the members of the commission shall constitute a quorum.

6. No member of the commission shall receive compensation for the performance of duties associated with membership on the commission.

7. Official minutes of all commission meetings shall be prepared by the chair, distributed to the members and filed by the state courts administrator.

8. The commission shall, on January 1, 2002, and annually thereafter on January first of each succeeding year, transmit a report summarizing the commission's findings to the general

assembly.

210.900. 1. Sections 210.900 to 210.936 shall be known and may be cited as the "Family Care Safety Act".

2. As used in sections 210.900 to 210.936, the following terms shall mean:

(1) "Child-care provider", any licensed or license-exempt child-care home, any licensed or license-exempt child-care center, child-placing agency, residential care facility for children, group home, foster family group home, foster family home, employment agency that refers a child-care worker to parents or guardians as defined in section 289.005. The term "child-care provider" does not include summer camps or voluntary associations designed primarily for recreational or educational purposes;

(2) "Child-care worker", any person who is employed by a child-care provider, or receives state or federal funds, either by direct payment, reimbursement or voucher payment, as remuneration for child-care services;

(3) "Department", the department of health and senior services;

(4) "Elder-care provider", any operator licensed pursuant to chapter 198 or any person, corporation, or association who provides in-home services under contract with the **[**division of aging**]** department of social services or its divisions or units, or any employer of nurses or nursing assistants of home health agencies licensed pursuant to sections 197.400 to 197.477, or any nursing assistants employed by a hospice pursuant to sections 197.250 to 197.280, or that portion of a hospital for which

subdivision (3) of subsection 1 of section 198.012 applies;

(5) "Elder-care worker", any person who is employed by an elder-care provider, or who receives state or federal funds, either by direct payment, reimbursement or voucher payment, as remuneration for elder-care services;

(6) "Employer", any child-care provider, elder- care provider, or personal-care provider as defined in this section;

(7) "Mental health provider", any developmental disability facility or group home as defined in section 633.005;

(8) "Mental health worker", any person employed by a mental health provider to provide personal care services and supports;

(9) "Patrol", the Missouri state highway patrol;

(10) "Personal-care attendant" or "personal-care worker", a person who performs routine services or supports necessary for a person with a physical or mental disability to enter and maintain employment or to live independently;

(11) "Personal-care provider", any person, corporation, or association who provides personal-care services or supports under contract with the department of mental health**[**, the division of aging, the department of health and senior services or the department of elementary and secondary education**]** or the department of social services or its divisions or units;

(12) "Related child care", child care provided only to a child or children by such child's or children's grandparents, great-grandparents, aunts or uncles, or siblings living in a residence separate from the child or children;

(13) "Related elder care", care provided only to an elder by an adult child, a spouse, a grandchild, a great-grandchild or

a sibling of such elder.

210.950. 1. This section shall be known and may be cited as the "Safe Place for Newborns Act of 2002". The purpose of this section is to protect newborn children from injury and death caused by abandonment by a parent, and to provide safe and secure alternatives to such abandonment.

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

(1) "Hospital", as defined in section 197.020;

(2) "Maternity home", the same meaning as such term is defined in section 135.600;

(3) "Nonrelinquishing parent", the biological parent who does not leave a newborn infant with any person listed in subsection 3 of this section in accordance with this section;

(4) "Pregnancy resource center", the same meaning as such term is defined in section 135.630;

(5) "Relinquishing parent", the biological parent or person acting on such parent's behalf who leaves a newborn infant with any person listed in subsection 3 of this section in accordance with this section.

3. A parent shall not be prosecuted for a violation of section 568.030, 568.032, 568.045 or 568.050 for actions related to the voluntary relinquishment of a child up to forty-five days old pursuant to this section if:

(1) Expressing intent not to return for the child, the parent voluntarily delivered the child safely to the physical custody of any of the following persons:

(a) An employee, agent, or member of the staff of any hospital, maternity home, or pregnancy resource center in a

health care provider position or on duty in a nonmedical paid or volunteer position;

(b) A firefighter or emergency medical technician on duty in a paid position or on duty in a volunteer position; or

(c) A law enforcement officer;

(2) The child was no more than forty-five days old when delivered by the parent to any person listed in subdivision (1) of this subsection; and

(3) The child has not been abused or neglected by the parent prior to such voluntary delivery.

4. A parent voluntarily relinquishing a child under this section shall not be required to provide any identifying information about the child or the parent. No person shall induce or coerce, or attempt to induce or coerce, a parent into revealing his or her identity. No officer, employee, or agent of this state or any political subdivision of this state shall attempt to locate or determine the identity of such parent. In addition, any person who obtains information on the relinquishing parent shall not disclose such information except to the following:

(1) A birth parent who has waived anonymity or the child's adoptive parent;

(2) The staff of the department of health and senior services, the department of social services, or any county health or social services agency or licensed child welfare agency that provides services to the child;

(3) A person performing juvenile court intake or dispositional services;

(4) The attending physician;

(5) The child's foster parent or any other person who has physical custody of the child;

(6) A juvenile court or other court of competent jurisdiction conducting proceedings relating to the child;

(7) The attorney representing the interests of the public in proceedings relating to the child; and

(8) The attorney representing the interests of the child.

5. A person listed in subdivision (1) of subsection 3 of this section shall, without a court order, take physical custody of a child the person reasonably believes to be no more than forty-five days old and is delivered in accordance with this section by a person purporting to be the child's parent. If delivery of a newborn is made pursuant to this section in any place other than a hospital, the person taking physical custody of the child shall arrange for the immediate transportation of the child to the nearest hospital licensed pursuant to chapter 197.

6. The hospital, its employees, agents and medical staff shall perform treatment in accordance with the prevailing standard of care as necessary to protect the physical health or safety of the child. The hospital shall notify the children's division **[**of family services**]** and the local juvenile officer upon receipt of a child pursuant to this section. The local juvenile officer shall immediately begin protective custody proceedings and request the child be made a ward of the court during the child's stay in the medical facility. Upon discharge of the child from the medical facility and pursuant to a protective

custody order ordering custody of the child to the division, the children's division shall take physical custody of the child. The parent's voluntary delivery of the child in accordance with this section shall constitute the parent's implied consent to any such act and a voluntary relinquishment of such parent's parental rights.

7. In any termination of parental rights proceeding initiated after the relinquishment of a child pursuant to this section, the juvenile officer shall make public notice that a child has been relinquished, including the sex of the child, and the date and location of such relinquishment. Within thirty days of such public notice, the parent wishing to establish parental rights shall identify himself or herself to the court and state his or her intentions regarding the child. The court shall initiate proceedings to establish paternity, or if no person identifies himself as the father within thirty days, maternity. The juvenile officer shall make examination of the putative father registry established in section 192.016 to determine whether attempts have previously been made to preserve parental rights to the child. If such attempts have been made, the juvenile officer shall make reasonable efforts to provide notice of the abandonment of the child to such putative father.

8. (1) If a relinquishing parent of a child relinquishes custody of the child to any person listed in subsection 3 of this section in accordance with this section and to preserve the parental rights of the nonrelinquishing parent, the nonrelinquishing parent shall take such steps necessary to establish parentage within thirty days after the public notice or

specific notice provided in subsection 7 of this section.

(2) If either parent fails to take steps to establish parentage within the thirty-day period specified in subdivision (1) of this subsection, either parent may have all of his or her rights terminated with respect to the child.

(3) When either parent inquires at a hospital regarding a child whose custody was relinquished pursuant to this section, such facility shall refer such parent to the children's division and the juvenile court exercising jurisdiction over the child.

9. The persons listed in subdivision (1) of subsection 3 of this section shall be immune from civil, criminal, and administrative liability for accepting physical custody of a child pursuant to this section if such persons accept custody in good faith. Such immunity shall not extend to any acts or omissions, including negligent or intentional acts or omissions, occurring after the acceptance of such child.

10. The children's division shall:

(1) Provide information and answer questions about the process established by this section on the statewide, toll-free telephone number maintained pursuant to section 210.145;

(2) Provide information to the public by way of pamphlets, brochures, or by other ways to deliver information about the process established by this section.

11. It shall be an affirmative defense to prosecution for a violation of sections 568.030, 568.032, 568.045, and 568.050 that a parent who is a defendant voluntarily relinquished a child no more than one year old under this section.

12. Nothing in this section shall be construed as

conflicting with section 210.125.

211.081. 1. Whenever any person informs the court in person and in writing that a child appears to be within the purview of applicable provisions of section 211.031 or that a person seventeen years of age appears to be within the purview of the provisions of subdivision (1) of subsection 1 of section 211.031, the court shall make or cause to be made a preliminary inquiry to determine the facts and to determine whether or not the interests of the public or of the child or person seventeen years of age require that further action be taken. On the basis of this inquiry, the juvenile court may make such informal adjustment as is practicable without a petition or may authorize the filing of a petition by the juvenile officer. Any other provision of this chapter to the contrary notwithstanding, the juvenile court shall not make any order for disposition of a child or person seventeen years of age which would place or commit the child or person seventeen years of age to any location outside the state of Missouri without first receiving the approval of the children's division **[**of family services**]**.

2. Placement in any institutional setting shall represent the least restrictive appropriate placement for the child or person seventeen years of age and shall be recommended based upon a psychological or psychiatric evaluation or both. Prior to entering any order for disposition of a child or person seventeen years of age which would order residential treatment or other services inside the state of Missouri, the juvenile court shall enter findings which include the recommendation of the psychological or psychiatric evaluation or both; and

certification from the division director or designee as to whether a provider or funds or both are available, including a projection of their future availability. If the children's division [of family services] indicates that funding is not available, the division shall recommend and make available for placement by the court an alternative placement for the child or person seventeen years of age. The division shall have the burden of demonstrating that they have exercised due diligence in utilizing all available services to carry out the recommendation of the evaluation team and serve the best interest of the child or person seventeen years of age. The judge shall not order placement or an alternative placement with a specific provider but may reasonably designate the scope and type of the services which shall be provided by the department to the child or person seventeen years of age.

3. Obligations of the state incurred under the provisions of section 211.181 shall not exceed, in any fiscal year, the amount appropriated for this purpose.

211.180. Family preservation screenings shall be conducted by the children's division [of family services] within seventy-two hours of the removal of a child from the home and placement in the custody of the court. The results of this screening shall be submitted to the juvenile court judge for consideration in the order of disposition or treatment of the child.

211.183. 1. In juvenile court proceedings regarding the removal of a child from his or her home, the court's order shall include a determination of whether the children's division [of

family services] has made reasonable efforts to prevent or eliminate the need for removal of the child and, after removal, to make it possible for the child to return home. If the first contact with the family occurred during an emergency in which the child could not safely remain at home even with reasonable in-home services, the division shall be deemed to have made reasonable efforts to prevent or eliminate the need for removal.

2. "Reasonable efforts" means the exercise of reasonable diligence and care by the division to utilize all available services related to meeting the needs of the juvenile and the family. In determining reasonable efforts to be made and in making such reasonable efforts, the child's present and ongoing health and safety shall be the paramount consideration.

3. In support of its determination of whether reasonable efforts have been made, the court shall enter findings, including a brief description of what preventive or reunification efforts were made and why further efforts could or could not have prevented or shortened the separation of the family. The division shall have the burden of demonstrating reasonable efforts.

4. The juvenile court may authorize the removal of the child even if the preventive and reunification efforts of the division have not been reasonable, but further efforts could not permit the child to remain at home.

5. Before a child may be removed from the parent, guardian, or custodian of the child by order of a juvenile court, excluding commitments to the division of youth services, the court shall in its orders:

(1) State whether removal of the child is necessary to protect the child and the reasons therefor;

(2) Describe the services available to the family before removal of the child, including in-home services;

(3) Describe the efforts made to provide those services relevant to the needs of the family before the removal of the child;

(4) State why efforts made to provide family services described did not prevent removal of the child; and

(5) State whether efforts made to prevent removal of the child were reasonable, based upon the needs of the family and child.

6. If continuation of reasonable efforts, as described in this section, is determined by the division to be inconsistent with establishing a permanent placement for the child, the division shall take such steps as are deemed necessary by the division, including seeking modification of any court order to modify the permanency plan for the child.

7. The division shall not be required to make reasonable efforts, as defined in this section, but has the discretion to make reasonable efforts if a court of competent jurisdiction has determined that:

(1) The parent has subjected the child to a severe act or recurrent acts of physical, emotional or sexual abuse toward the child, including an act of incest; or

(2) The parent has:

(a) Committed murder of another child of the parent;

(b) Committed voluntary manslaughter of another child of

the parent;

(c) Aided or abetted, attempted, conspired or solicited to commit such a murder or voluntary manslaughter; or

(d) Committed a felony assault that resulted in serious bodily injury to the child or to another child of the parent; or

(3) The parent's parental rights to a sibling have been involuntarily terminated.

8. If the court determines that reasonable efforts, as described in this section, are not required to be made by the division, the court shall hold a permanency hearing within thirty days after the court has made such determination. The division shall complete whatever steps are necessary to finalize the permanent placement of the child.

9. The division may concurrently engage in reasonable efforts, as described in this section, while engaging in such other measures as are deemed appropriate by the division to establish a permanent placement for the child.

211.455. 1. Within thirty days after the filing of the petition, the juvenile officer shall meet with the court in order to determine that all parties have been served with summons and to request that the court order the investigation and social study.

2. If, at that time, all parties required to be served with summons have not been served, the court, in its discretion, may extend the time for service if the court finds that service may be forthcoming and that the best interests of the child would be served thereby.

3. The court shall order an investigation and social study

except in cases filed under section 211.444. The investigation and social study shall be made by the juvenile officer, the state children's division **[**of family services**]** or a public or private agency authorized or licensed to care for children or any other competent person, as directed by the court, and a written report shall be made to the court to aid the court in determining whether the termination is in the best interests of the child. It shall include such matters as the parental background, the fitness and capacity of the parent to discharge parental responsibilities, the child's home, present adjustment, physical, emotional and mental condition, and such other facts as are pertinent to the determination. Parties and attorneys or guardians ad litem or volunteer advocates representing them before the court shall have access to the written report. All ordered evaluations and reports shall be made available to the parties and attorneys or guardians ad litem or volunteer advocates representing them before the court at least fifteen days prior to any dispositional hearing.

211.477. 1. If, after the dispositional hearing, the court finds that one or more of the grounds set out in section 211.447 exists or that the parent has consented to the termination pursuant to section 211.444 and that it is in the best interests of the child, the court may terminate the rights of the parent in and to the child. After ordering termination and after consideration of the social study and report, the court shall transfer legal custody to:

(1) The children's division **[**of family services**]**;

(2) A private child-placing agency;

(3) A foster parent, relative or other person participating in the proceedings pursuant to section 211.464; or

(4) Any other person or agency the court deems suitable to care for the child.

2. If only one parent consents or if the conditions specified in section 211.447 are found to exist as to only one parent, the rights of only that parent with reference to the child may be terminated and the rights of the other parent shall not be affected.

3. The court may order termination whether or not the child is in adoptive placement or an adoptive placement is available for the child.

4. If, after the dispositional hearing, the court finds that one or more of the grounds set out in section 211.447 exists, but that termination is not in the best interests of the child because the court finds that the child would benefit from the continued parent-child relationship or because the child is fourteen or more years of age and objects to the termination, the court may:

(1) Dismiss the petition and order that the child be returned to the custody of the parent;

(2) Retain jurisdiction of the case and order that the child be placed in the legal custody of the parent, the division, a private child-caring or placing agency, a foster parent, relative or other suitable person who is able to provide long-term care for the child. Any order of the court under this subdivision shall designate the period of time it shall remain in effect, with mandatory review by the court no later than six

months thereafter. The court shall also specify what residual rights and responsibilities remain with the parent. Any individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by the court; or

(3) Appoint a guardian under the provisions of chapter 475.

5. Orders of the court issued pursuant to sections 211.442 to 211.487 shall recite the jurisdictional facts, factual findings on the existence of grounds for termination and that the best interests of the child are served by the disposition stated in the order.

6. The granting or denial of a petition for termination of parental rights shall be deemed a final judgment for purposes of appeal.

217.575. 1. All goods manufactured, services provided or produce of the vocational enterprises program of the state shall, upon the requisition of the proper official, be furnished to the state, to any public institution owned, managed or controlled by the state, or to any private entity that is leasing space to any agency of the state government for use in space leased to the state agency, at such prices as shall be determined as provided in subsection 4 of this section.

2. No goods or services so manufactured, provided or produced shall be purchased from any other source for the state or public institutions of the state unless the department shall certify the goods or services included in the requisition cannot be furnished or supplied by the vocational enterprises program within ninety days, or, in the event the same goods or services

cannot be procured on the open market within ninety days, that the vocational enterprises program cannot supply them within a reasonable time. No claims for the payment of such goods or services shall be audited or paid without this certificate. One copy each of the requisition or certificate shall be retained by the department.

3. The division of purchasing and the division of facilities management, design and construction shall cooperate with the department in seeking to promote for use by state agencies and in state-owned or -occupied facilities the products manufactured and services provided by the vocational enterprises program.

4. The vocational enterprises program shall fix and determine the prices at which goods and produce so manufactured and produced and services so provided shall be furnished, and the prices shall be uniform to all. The cost shall not be fixed at more than the market price for like goods and services.

5. Any differences between the vocational enterprises program and the state, its departments, divisions, agencies, institutions, or the political subdivisions of the state as to style, design, price or quality of goods shall be submitted to arbitrators whose decision shall be final. One of the arbitrators shall be named by the program, one by the office, department, political subdivision or institution concerned, and one by agreement of the other two. The arbitrators shall receive no compensation; however, their necessary expenses shall be paid by the office, department, political subdivision or institution against which the award is given, or, in the event of a

compromise decision, by both parties, the amount to be paid by each party in portions to be determined by the arbitrators.

6. The vocational enterprises program may sell office systems and furniture to any department, agency, or institution of the state or any political subdivision of the state either through outright purchase or through payment plan agreement, including handling charges, over a specified number of months contingent on the solvency of the working capital revolving fund. Prior approval shall be required by the division of facilities management, design and construction for state agencies in situations where the office of administration controlled state-owned office space is involved and space in which a lease contract executed by the office of administration is in effect.

226.008. 1. The highways and transportation commission shall have responsibility and authority, as provided in this section and sections 104.805, 389.005, 389.610, and 621.040, for the administration and enforcement of:

(1) Licensing, supervising and regulating motor carriers for the transportation of passengers, household goods and other property by motor vehicles within this state;

(2) Licensing motor carriers to transport hazardous waste, used oil, infectious waste and permitting waste tire haulers in intrastate or interstate commerce, or both, by motor vehicles within this state;

(3) Compliance by motor carriers and motor private carriers with applicable requirements relating to safety and hazardous materials transportation, within the terminals of motor carriers and motor private carriers of passengers or property;

(4) Compliance by motor carriers and motor private carriers with applicable requirements relating to safety and hazardous materials transportation wherever they possess, transport or deliver hazardous waste, used oil, infectious waste or waste tires. This authority is in addition to, and not exclusive of, the authority of the department of natural resources to ensure compliance with any and all applicable requirements related to the transportation of hazardous waste, used oil, infectious waste or waste tires;

(5) Collecting and regulating amounts payable to the state from interstate motor carriers in accordance with the provisions of the International Fuel Tax Agreement in accordance with section 142.617, and any successor or similar agreements, including the authority to impose and collect motor fuel taxes due pursuant to chapter 142, and such agreement;

(6) Registering and regulating interstate commercial motor vehicles operated upon the highways of this state, in accordance with the provisions of the International Registration Plan in accordance with sections 301.271 through 301.277, and any successor or similar agreements, including the authority to issue license plates in accordance with sections 301.130 and 301.041;

(7) Permitting the transportation of over dimension or overweight motor vehicles or loads that exceed the maximum weights or dimensions otherwise allowed upon the public highways within the jurisdiction of the highways and transportation commission; and

(8) Licensing intrastate housemovers.

2. The highways and transportation commission shall carry

out all powers, duties and functions relating to intrastate and interstate transportation previously performed by:

(1) The division of motor carrier and railroad safety within the department of economic development, and all officers or employees of that division;

(2) The department of natural resources, and all officers or employees of that division, relating to the issuance of licenses or permits to transport hazardous waste, used oil, infectious waste or waste tires by motor vehicles operating within the state;

(3) The highway reciprocity commission within the department of revenue, and all officers or employees of that commission; and the director of revenue's powers, duties and functions relating to the highway reciprocity commission, except that the highways and transportation commission may allow the department of revenue to enforce the provisions of the International Fuel Tax Agreement, as required by such agreement; and

(4) The motor carrier services unit within the traffic functional unit of the department of transportation, relating to the special permitting of operations on state highways of motor vehicles or loads that exceed the maximum length, width, height or weight limits established by law or by the highways and transportation commission.

3. All the powers, duties and functions described in subsections 1 and 2 of this section, including but not limited to, all powers, duties and functions pursuant to chapters 387, 390 and 622, including all rules and orders, are hereby

transferred to the department of transportation, which is in the charge of the highways and transportation commission, by type I transfer, as defined in the Omnibus State Reorganization Act of 1974, and the preceding agencies and officers shall no longer be responsible for those powers, duties and functions.

4. All the powers, duties and functions, including all rules and orders, of the administrative law judges of the division of motor carrier and railroad safety, as amended by the provisions of this section and sections 104.805, 389.005, 389.610, and 621.040, are hereby transferred to the administrative hearing commission within the state office of administration.

5. The division of motor carrier and railroad safety and the highway reciprocity commission are abolished.

6. Personnel previously employed by the division of motor carrier and railroad safety and the highway reciprocity commission shall be transferred to the department of transportation, but the department of natural resources shall not be required to transfer any personnel pursuant to this section. The administrative law judge within the division of motor carrier and railroad safety shall be transferred to the administrative hearing commission.

7. Credentials issued by the transferring agencies or officials before July 11, 2002, shall remain in force or expire as provided by law. In addition, the highways and transportation commission shall have the authority to suspend, cancel or revoke such credentials after July 11, 2002.

8. Notwithstanding any provision of law to the contrary, on

and after July 11, 2002, all surety bonds, cash bonds, certificates of deposit, letters of credit, drafts, checks or other financial instruments payable to:

(1) The highway reciprocity commission or the department of revenue pursuant to section 301.041 or pursuant to the International Fuel Tax Agreement; or

(2) Any other agency or official whose powers, duties or functions are transferred pursuant to this section,

shall be payable instead to the state highways and transportation commission.

9. The department of natural resources shall have authority to collect and establish by rule the amount of the fee paid by applicants for a permit to transport waste tires.

10. The Missouri hazardous waste management commission created in section 260.365 shall have the authority to collect and establish by rule the amount of the fee paid by applicants for a license to transport hazardous waste, used oil, or infectious waste pursuant to section 260.395.

11. All of the authority, powers, duties, and functions of the division of highway safety relating to the motorcycle safety program under sections 302.133 to 302.138, the driver improvement program authorized under section 302.178, the ignition interlock program under sections 577.600 to 577.614, and other state highway safety programs as provided by state law, including all administrative rules promulgated thereunder, are hereby transferred to the department of transportation, which is in charge of the state highways and transportation commission, by type I transfer as set forth in the Omnibus State Reorganization

Act of 1974.

226.805. 1. There is hereby created the "Interagency Committee on Special Transportation" within the Missouri department of transportation. The members of the committee shall be: The assistant for transportation of the Missouri department of transportation, or his or her designee; the assistant commissioner of the department of elementary and secondary education, responsible for special transportation, or his or her designee; the director of the **[**division of aging of the**]** department of **[**social**]** health and senior services, or **[**his**]** the director's designee; the director of the children's division **[**of family services**]** of the department of social services, or **[**his**]** the director's designee; the deputy director for mental retardation/developmental disabilities and the deputy director for administration of the department of mental health, or their designees; the executive secretary of the governor's committee on the employment of the handicapped; and other state agency representatives as the governor deems appropriate for temporary or permanent membership by executive order.

2. The interagency committee on special transportation shall:

(1) Jointly designate substate special transportation planning and service areas within the state;

(2) Jointly designate a special transportation planning council for each special transportation planning and service area. The special transportation planning council shall be composed of the area agency on aging, the regional center for developmental disabilities, the regional planning commission and

other local organizations responsible for funding and organizing special transportation designated by the interagency committee. The special transportation planning councils will oversee and approve the preparation of special transportation plans. Staff support for the special transportation planning councils will be provided by the regional planning commissions serving the area with funds provided by the department of transportation for this purpose;

(3) Jointly establish a uniform planning format and content;

(4) Individually and jointly establish uniform budgeting and reporting standards for all transportation funds administered by the member agencies. These standards shall be adopted into the administrative rules of each member agency;

(5) Individually establish annual allocations of funds to support special transportation services in each of the designated planning and service areas;

(6) Individually and jointly adopt a five-year planning budget for the capital and operating needs of special transportation in Missouri;

(7) Individually develop administrative and adopt rules for the substate division of special transportation funds;

(8) Jointly review and accept annual capital and operating plans for the designated special transportation planning and service areas;

(9) Individually submit proposed expenditures to the interagency committee for review as to conformity with the areas special transportation plans. All expenditures are to be made in

accordance with the plans or by special action of the interagency committee.

3. The assistant for transportation of the Missouri department of transportation shall serve as chairman of the committee.

4. Staff for the committee shall be provided by the Missouri department of transportation.

5. The committee shall meet on such a schedule and carry out its duties in such a way as to discharge its responsibilities over special transportation expenditures made for the state fiscal year beginning July 1, 1989, and all subsequent years.

251.100. The division of **[**planning**]** facilities management, design and construction shall furnish office space for the department, the headquarters of which department shall be located in Jefferson City, Missouri.

251.240. The division of facilities management, design and construction shall furnish office space for the state office; the headquarters office shall be located in Jefferson City, Missouri.

253.320. Any lease granted under the provisions of sections 253.290 to 253.320 shall be conditioned as follows and also contain such provisions as the attorney general may prescribe:

(1) The director of the department of natural resources shall retain the right to enter upon the lands at all times;

(2) The director shall control the style of architecture used in construction on the lands, and the quality of materials used in said construction shall be approved by the director of the division of facilities management, design and construction for the state of Missouri, and may control all fees and prices

charged to the public as may be required by the director;

(3) The director shall inspect and audit the books and records of the lessee at least once every two years;

(4) The lessee shall provide such care, maintenance, repair, conservation and improvement of the lands and shall render such services to the public as may be required by the director;

(5) The lessee shall keep true and accurate records of his or her receipts and disbursements arising out of the operation of facilities upon the leased lands and shall permit the director to inspect and audit them at all reasonable times;

(6) Nothing in sections 253.290 to 253.320 shall be construed as denying the lessees the right to execute mortgages and other evidences of interest in or indebtedness upon their leasehold interest or properties thereon for the purpose of installing, enlarging or improving plant and equipment and extending facilities for the accommodation of the public within said state park; provided, however, that no such mortgage or other encumbrance shall be valid unless authorized and approved by the written order of the director; and further provided that the period for payment of such mortgage or indebtedness shall not extend beyond the lease period, and that no obligation or indebtedness shall incur to the state.

261.010. There is created a "Department of Agriculture", the main office of which shall be in Jefferson City in quarters provided by the division of facilities management, design and construction. The governor, by and with the advice and consent of the senate, shall appoint a director of the department of

agriculture who shall be a practical farmer, well versed in agricultural science and who shall serve at the pleasure of the governor. The director shall be in charge of the department of agriculture.

285.300. 1. Every employer doing business in the state shall require each newly hired employee to fill out a federal W-4 withholding form. A copy of each withholding form or an equivalent form containing data required by section 285.304 which may be provided in an electronic or magnetic format shall be sent to the department of revenue by the employer within twenty days after the date the employer hires the employee or in the case of an employer transmitting a report magnetically or electronically, by two monthly transmissions, if necessary, not less than twelve days nor more than sixteen days apart. For purposes of this section, the date the employer hires the employee shall be the earlier of the date the employee signs the W-4 form or its equivalent, or the first date the employee reports to work, or performs labor or services. Such forms shall be forwarded by the department of revenue to the <u>family support</u> division **[**of child support enforcement**]** on a weekly basis and the information shall be entered into the database, to be known as the "State Directory of New Hires". The information reported shall be provided to the National Directory of New Hires established in 42 U.S.C. section 653, other state agencies or contractors of the division as required or allowed by federal statutes or regulations. The division of employment security shall cross-check Missouri unemployment compensation recipients against any federal new hire database or any other database containing Missouri or other

states' wage information which is maintained by the federal government on a weekly basis. The division of employment security shall cross-check unemployment compensation applicants and recipients with Social Security Administration data maintained by the federal government at least weekly. Effective January 1, 2007, the division of employment security shall cross-check at least monthly unemployment compensation applicants and recipients with department of revenue drivers license databases.

2. Any employer that has employees who are employed in two or more states and transmits reports magnetically or electronically may comply with subsection 1 of this section by:

(1) Designating one of the states in which the employer has employees as the designated state that such employer shall transmit the reports; and

(2) Notifying the secretary of Health and Human Services of such designation.

288.220. 1. Subject to the supervision of the director of the department of labor and industrial relations, the division of employment security of the department of labor and industrial relations shall be under the control, management and supervision of a director who shall be appointed by the governor, by and with the advice and consent of the senate. The director shall serve at the pleasure of the governor.

2. The division shall be responsible for administering the Missouri state **[**employment service operation, the**]** unemployment insurance operation and any other operations as are necessary to administer the state's employment security law.

3. The central office of the division shall be maintained in the City of Jefferson.

4. Subject to the supervision and approval of the director of the department of labor and industrial relations, it shall be the duty of the director to administer this law; and **[**he**]** the director shall have power and authority to adopt, amend, or rescind any regulations as **[**he**]** the director deems necessary to the efficient internal management of the division. The director shall determine the division's organization and methods of procedure. Subject to the provisions of the state merit system law, chapter 36, the director shall employ and prescribe the duties and powers of the persons as may be necessary. The director shall collaborate with the personnel director and the personnel advisory board in establishing for employees of the division salaries comparable to the salaries paid by other states of a similar size and volume of operations to employees engaged in the administration of the employment security programs of those states. The director may delegate to any such person the power and authority as **[**he**]** the director deems reasonable and proper for the effective administration of the law, and may in **[**his**]** the director's discretion bond any person handling moneys or signing checks. Further, the director shall have the power to make expenditures, require reports, make investigations and take other action not inconsistent with this law as he or she considers necessary to the efficient and proper administration of the law.

5. Subject to the approval of the director of the department of labor and industrial relations and the commission,

the director shall adopt, amend or rescind the rules and regulations as are necessary to implement any of the provisions of this law not relating to the internal management of the division; however, the rules and regulations shall not become effective until ten days after their approval by the commission and copies thereof have been filed in the office of the secretary of state.

301.020. 1. Every owner of a motor vehicle or trailer, which shall be operated or driven upon the highways of this state, except as herein otherwise expressly provided, shall annually file, by mail or otherwise, in the office of the director of revenue, an application for registration on a blank to be furnished by the director of revenue for that purpose containing:

(1) A brief description of the motor vehicle or trailer to be registered, including the name of the manufacturer, the vehicle identification number, the amount of motive power of the motor vehicle, stated in figures of horsepower and whether the motor vehicle is to be registered as a motor vehicle primarily for business use as defined in section 301.010;

(2) The name, the applicant's identification number and address of the owner of such motor vehicle or trailer;

(3) The gross weight of the vehicle and the desired load in pounds if the vehicle is a commercial motor vehicle or trailer.

2. If the vehicle is a motor vehicle primarily for business use as defined in section 301.010 and if such vehicle is five years of age or less, the director of revenue shall retain the odometer information provided in the vehicle inspection report,

and provide for prompt access to such information, together with the vehicle identification number for the motor vehicle to which such information pertains, for a period of five years after the receipt of such information. This section shall not apply unless:

(1) The application for the vehicle's certificate of ownership was submitted after July 1, 1989; and

(2) The certificate was issued pursuant to a manufacturer's statement of origin.

3. If the vehicle is any motor vehicle other than a motor vehicle primarily for business use, a recreational motor vehicle, motorcycle, motortricycle, bus or any commercial motor vehicle licensed for over twelve thousand pounds and if such motor vehicle is five years of age or less, the director of revenue shall retain the odometer information provided in the vehicle inspection report, and provide for prompt access to such information, together with the vehicle identification number for the motor vehicle to which such information pertains, for a period of five years after the receipt of such information. This subsection shall not apply unless:

(1) The application for the vehicle's certificate of ownership was submitted after July 1, 1990; and

(2) The certificate was issued pursuant to a manufacturer's statement of origin.

4. If the vehicle qualifies as a reconstructed motor vehicle, motor change vehicle, specially constructed motor vehicle, non-USA-std motor vehicle, as defined in section 301.010, or prior salvage as referenced in section 301.573, the

owner or lienholder shall surrender the certificate of ownership. The owner shall make an application for a new certificate of ownership, pay the required title fee, and obtain the vehicle examination certificate required pursuant to subsection 9 of section 301.190. If an insurance company pays a claim on a salvage vehicle as defined in section 301.010 and the owner retains the vehicle, as prior salvage, the vehicle shall only be required to meet the examination requirements under **[**and pursuant to**]** subsection 10 of section 301.190. Notarized bills of sale along with a copy of the front and back of the certificate of ownership for all major component parts installed on the vehicle and invoices for all essential parts which are not defined as major component parts shall accompany the application for a new certificate of ownership. If the vehicle is a specially constructed motor vehicle, as defined in section 301.010, two pictures of the vehicle shall be submitted with the application. If the vehicle is a kit vehicle, the applicant shall submit the invoice and the manufacturer's statement of origin on the kit. If the vehicle requires the issuance of a special number by the director of revenue or a replacement vehicle identification number, the applicant shall submit the required application and application fee. All applications required under this subsection shall be submitted with any applicable taxes which may be due on the purchase of the vehicle or parts. The director of revenue shall appropriately designate "Reconstructed Motor Vehicle", "Motor Change Vehicle", "Non-USA-Std Motor Vehicle", or "Specially Constructed Motor Vehicle" on the current and all subsequent issues of the certificate of ownership of such

vehicle.

5. Every insurance company that pays a claim for repair of a motor vehicle which as the result of such repairs becomes a reconstructed motor vehicle as defined in section 301.010 or that pays a claim on a salvage vehicle as defined in section 301.010 and the owner is retaining the vehicle shall in writing notify the owner of the vehicle, and in a first party claim, the lienholder if a lien is in effect, that he is required to surrender the certificate of ownership, and the documents and fees required pursuant to subsection 4 of this section to obtain a prior salvage motor vehicle certificate of ownership or documents and fees as otherwise required by law to obtain a salvage certificate of ownership, from the director of revenue. The insurance company shall within thirty days of the payment of such claims report to the director of revenue the name and address of such owner, the year, make, model, vehicle identification number, and license plate number of the vehicle, and the date of loss and payment.

6. Anyone who fails to comply with the requirements of this section shall be guilty of a class B misdemeanor.

7. An applicant for registration may make a donation of one dollar to promote a blindness education, screening and treatment program. The director of revenue shall collect the donations and deposit all such donations in the state treasury to the credit of the blindness education, screening and treatment program fund established in section **[**192.935**]** <u>209.015</u>. Moneys in the blindness education, screening and treatment program fund shall be used solely for the purposes established in section **[**192.935,**]**

209.015; except that the department of revenue shall retain no more than one percent for its administrative costs. The donation prescribed in this subsection is voluntary and may be refused by the applicant for registration at the time of issuance or renewal. The director shall inquire of each applicant at the time the applicant presents the completed application to the director whether the applicant is interested in making the one dollar donation prescribed in this subsection.

8. An applicant for registration may make a donation of one dollar to promote an organ donor program. The director of revenue shall collect the donations and deposit all such donations in the state treasury to the credit of the organ donor program fund as established in sections 194.297 to 194.304. Moneys in the organ donor fund shall be used solely for the purposes established in sections 194.297 to 194.304, except that the department of revenue shall retain no more than one percent for its administrative costs. The donation prescribed in this subsection is voluntary and may be refused by the applicant for registration at the time of issuance or renewal. The director shall inquire of each applicant at the time the applicant presents the completed application to the director whether the applicant is interested in making the one dollar donation prescribed in this subsection.

302.133. As used in sections 302.133 to 302.138, the following terms mean:

(1) "Commission", the state highways and transportation commission;

(2) "Department", the department of **[**public safety**]**

transportation;

[(2)**]** (3) "Director", the director of the department of **[**public safety**]** transportation;

[(3)**]** (4) "Instructor", a licensed motorcycle operator who meets the standards established by the **[**department**]** commission to teach the motorcycle rider training course;

[(4)**]** (5) "Motorcycle", a motorcycle or motortricycle as those terms are defined by section 301.010;

[(5)**]** (6) "Motorcycle rider training course", a motorcycle rider education curriculum and delivery system approved by the **[**department**]** commission as meeting standards designed to develop and instill the knowledge, attitudes, habits, and skills necessary for the safe operation of a motorcycle.

302.134. 1. The **[**department**]** commission shall establish standards for and shall administer the motorcycle safety education program. The program shall include, but is not limited to, motorcycle rider training and instructor training courses. The **[**department**]** commission may expand the program to include components relating to the effect of alcohol and drugs on motorcycle operation, public awareness of motorcycles on the highways, driver improvement for motorcyclists, motorcycle operator licensing improvement, program promotion, and other motorcycle safety efforts.

2. Standards adopted by the **[**department**]** commission for the motorcycle safety education program, including standards for instructor qualification and standards for the motorcycle rider training and instructor training courses, shall, at a minimum, comply with the applicable standards of the Motorcycle Safety

Foundation.

3. The [department] commission shall promulgate rules and regulations necessary to administer the provisions of sections 302.133 to 302.138.

4. No rule or portion of a rule promulgated under the authority of this chapter shall become effective until it has been approved by the joint committee on administrative rules in accordance with the procedures provided in this section, and the delegation of the legislative authority to enact law by the adoption of such rules is dependent upon the power of the joint committee on administrative rules to review and suspend rules pending ratification by the senate and the house of representatives as provided in this section.

5. Upon filing any proposed rule with the secretary of state, the [department] commission shall concurrently submit such proposed rule to the committee, which may hold hearings upon any proposed rule or portion thereof at any time.

6. A final order of rulemaking shall not be filed with the secretary of state until thirty days after such final order of rulemaking has been received by the committee. The committee may hold one or more hearings upon such final order of rulemaking during the thirty-day period. If the committee does not disapprove such order of rulemaking within the thirty-day period, the [department] commission may file such order of rulemaking with the secretary of state and the order of rulemaking shall be deemed approved.

7. The committee may, by majority vote of the members, suspend the order of rulemaking or portion thereof by action

taken prior to the filing of the final order of rulemaking only for one or more of the following grounds:

(1) An absence of statutory authority for the proposed rule;

(2) An emergency relating to public health, safety or welfare;

(3) The proposed rule is in conflict with state law;

(4) A substantial change in circumstance since enactment of the law upon which the proposed rule is based.

8. If the committee disapproves any rule or portion thereof, the **[**department**]** commission shall not file such disapproved portion of any rule with the secretary of state and the secretary of state shall not publish in the Missouri Register any final order of rulemaking containing the disapproved portion.

9. If the committee disapproves any rule or portion thereof, the committee shall report its findings to the senate and the house of representatives. No rule or portion thereof disapproved by the committee shall take effect so long as the senate and the house of representatives ratify the act of the joint committee by resolution adopted in each house within thirty legislative days after such rule or portion thereof has been disapproved by the joint committee.

10. Upon adoption of a rule as provided in this section, any such rule or portion thereof may be suspended or revoked by the general assembly either by bill or, pursuant to section 8, article IV of the Constitution of Missouri, by concurrent resolution upon recommendation of the joint committee on administrative rules. The committee shall be authorized to hold

hearings and make recommendations pursuant to the provisions of section 536.037. The secretary of state shall publish in the Missouri Register, as soon as practicable, notice of the suspension or revocation.

302.135. 1. The **[**department**]** commission may enter into contracts with public or private institutions or organizations for technical assistance in conducting motorcycle rider training courses and instructor training courses if they are administered and taught in accordance with standards established by the **[**department**]** commission.

2. The department or a contracting institution or organization conducting a course may charge a reasonable tuition fee as determined by the **[**director**]** commission.

3. The **[**department**]** director shall issue certificates of completion in the manner and form prescribed by the **[**director**]** commission to persons who satisfactorily complete the requirements of the state-approved course. Completion of the course shall be indicated upon the person's driver's license. A sticker or other evidence of completion shall be issued for the license until the license is subsequently renewed.

302.137. 1. There is hereby created in the state treasury for use by the **[**department of public safety**]** commission a fund to be known as the "Motorcycle Safety Trust Fund". All judgments collected pursuant to this section, appropriations of the general assembly, federal grants, private donations and any other moneys designated for the motorcycle safety education program established pursuant to sections 302.133 to 302.138 shall be deposited in the fund. Moneys deposited in the fund shall, upon

appropriation by the general assembly to the [department of public safety], be received and expended by the [department] commission of public safety for the purpose of funding the motorcycle safety education program established under sections 302.133 to 302.138. Notwithstanding the provisions of section 33.080 to the contrary, any unexpended balance in the motorcycle safety trust fund at the end of any biennium shall not be transferred to the general revenue fund.

2. In all criminal cases, including violations of any county ordinance or any violation of criminal or traffic laws of this state, including an infraction, there shall be assessed as costs a surcharge in the amount of one dollar. No such surcharge shall be collected in any proceeding involving a violation of an ordinance or state law when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the state, county or municipality.

3. Such surcharge shall be collected and distributed by the clerk of the court as provided in sections 488.010 to 488.020. The surcharge collected pursuant to this section shall be paid to the state treasury to the credit of the motorcycle safety trust fund established in this section.

302.171. 1. The director shall verify that an applicant for a driver's license is a Missouri resident or national of the United States or a noncitizen with a lawful immigration status, and a Missouri resident before accepting the application. The director shall not issue a driver's license for a period that exceeds the duration of an applicant's lawful immigration status in the United States. The director may establish procedures to

verify the Missouri residency or United States naturalization or lawful immigration status and Missouri residency of the applicant and establish the duration of any driver's license issued under this section. An application for a license shall be made upon an approved form furnished by the director. Every application shall state the full name, Social Security number, age, height, weight, color of eyes, sex, residence, mailing address of the applicant, and the classification for which the applicant has been licensed, and, if so, when and by what state, and whether or not such license has ever been suspended, revoked, or disqualified, and, if revoked, suspended or disqualified, the date and reason for such suspension, revocation or disqualification and whether the applicant is making a one dollar donation to promote an organ donation program as prescribed in subsection 2 of this section. A driver's license, nondriver's license, or instruction permit issued under this chapter shall contain the applicant's legal name as it appears on a birth certificate or as legally changed through marriage or court order. No name change by common usage based on common law shall be permitted. The application shall also contain such information as the director may require to enable the director to determine the applicant's qualification for driving a motor vehicle; and shall state whether or not the applicant has been convicted in this or any other state for violating the laws of this or any other state or any ordinance of any municipality, relating to driving without a license, careless driving, or driving while intoxicated, or failing to stop after an accident and disclosing the applicant's identity, or driving a motor vehicle without the owner's consent. The application shall

contain a certification by the applicant as to the truth of the facts stated therein. Every person who applies for a license to operate a motor vehicle who is less than twenty-one years of age shall be provided with educational materials relating to the hazards of driving while intoxicated, including information on penalties imposed by law for violation of the intoxication-related offenses of the state. Beginning January 1, 2001, if the applicant is less than eighteen years of age, the applicant must comply with all requirements for the issuance of an intermediate driver's license pursuant to section 302.178. For persons mobilized and deployed with the United States Armed Forces, an application under this subsection shall be considered satisfactory by the department of revenue if it is signed by a person who holds general power of attorney executed by the person deployed, provided the applicant meets all other requirements set by the director.

2. An applicant for a license may make a donation of one dollar to promote an organ donor program. The director of revenue shall collect the donations and deposit all such donations in the state treasury to the credit of the organ donor program fund established in sections 194.297 to 194.304. Moneys in the organ donor program fund shall be used solely for the purposes established in sections 194.297 to 194.304 except that the department of revenue shall retain no more than one percent for its administrative costs. The donation prescribed in this subsection is voluntary and may be refused by the applicant for the license at the time of issuance or renewal of the license. The director shall make available an informational booklet or

other informational sources on the importance of organ and tissue donations to applicants for licensure as designed by the organ donation advisory committee established in sections 194.297 to 194.304. The director shall inquire of each applicant at the time the licensee presents the completed application to the director whether the applicant is interested in making the one dollar donation prescribed in this subsection and whether the applicant is interested in inclusion in the organ donor registry and shall also specifically inform the licensee of the ability to consent to organ donation by completing the form on the reverse of the license that the applicant will receive in the manner prescribed by subdivision (1) of subsection 1 of section 194.225. A symbol shall be placed on the front of the document indicating the applicant's desire to be listed in the registry. The director shall notify the department of health and senior services of information obtained from applicants who indicate to the director that they are interested in registry participation, and the department of health and senior services shall enter the complete name, address, date of birth, race, gender and a unique personal identifier in the registry established in subsection 1 of section 194.304.

3. An applicant for a license may make a donation of one dollar to promote a blindness education, screening and treatment program. The director of revenue shall collect the donations and deposit all such donations in the state treasury to the credit of the blindness education, screening and treatment program fund established in section **[**192.935**]** <u>209.015</u>. Moneys in the blindness education, screening and treatment program fund shall

be used solely for the purposes established in section [192.935] 209.015; except that the department of revenue shall retain no more than one percent for its administrative costs. The donation prescribed in this subsection is voluntary and may be refused by the applicant for the license at the time of issuance or renewal of the license. The director shall inquire of each applicant at the time the licensee presents the completed application to the director whether the applicant is interested in making the one dollar donation prescribed in this subsection.

4. Beginning July 1, 2005, the director shall deny the driving privilege of any person who commits fraud or deception during the examination process or who makes application for an instruction permit, driver's license, or nondriver's license which contains or is substantiated with false or fraudulent information or documentation, or who knowingly conceals a material fact or otherwise commits a fraud in any such application. The period of denial shall be one year from the effective date of the denial notice sent by the director. The denial shall become effective ten days after the date the denial notice is mailed to the person. The notice shall be mailed to the person at the last known address shown on the person's driving record. The notice shall be deemed received three days after mailing unless returned by the postal authorities. No such individual shall reapply for a driver's examination, instruction permit, driver's license, or nondriver's license until the period of denial is completed. No individual who is denied the driving privilege under this section shall be eligible for a limited driving privilege issued under section 302.309.

5. All appeals of denials under this section shall be made as required by section 302.311.

6. The period of limitation for criminal prosecution under this section shall be extended under subdivision (1) of subsection 3 of section 556.036.

7. The director may promulgate rules and regulations necessary to administer and enforce this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536.

8. Notwithstanding any provision of this chapter that requires an applicant to provide proof of Missouri residency for renewal of a noncommercial driver's license, noncommercial instruction permit, or nondriver's license, an applicant who is sixty-five years and older and who was previously issued a Missouri noncommercial driver's license, noncommercial instruction permit, or Missouri nondriver's license is exempt from showing proof of Missouri residency.

9. Notwithstanding any provision of this chapter, for the renewal of a noncommercial driver's license, noncommercial instruction permit, or nondriver's license, a photocopy of an applicant's United States birth certificate along with another form of identification approved by the department of revenue, including, but not limited to, United States military identification or United States military discharge papers, shall constitute sufficient proof of Missouri citizenship.

10. Notwithstanding any other provision of this chapter, if an applicant does not meet the requirements of subsection 8 of

this section and does not have the required documents to prove Missouri residency, United States naturalization, or lawful immigration status, the department may issue a one-year driver's license renewal. This one-time renewal shall only be issued to an applicant who previously has held a Missouri noncommercial driver's license, noncommercial instruction permit, or nondriver's license for a period of fifteen years or more and who does not have the required documents to prove Missouri residency, United States naturalization, or lawful immigration status. After the expiration of the one-year period, no further renewal shall be provided without the applicant producing proof of Missouri residency, United States naturalization, or lawful immigration status.

302.178. 1. Any person between the ages of sixteen and eighteen years who is qualified to obtain a license pursuant to sections 302.010 to 302.340 may apply for, and the director shall issue, an intermediate driver's license entitling the applicant, while having such license in his or her possession, to operate a motor vehicle of the appropriate class upon the highways of this state in conjunction with the requirements of this section. An intermediate driver's license shall be readily distinguishable from a license issued to those over the age of eighteen. All applicants for an intermediate driver's license shall:

(1) Successfully complete the examination required by section 302.173;

(2) Pay the fee required by subsection 4 of this section;

(3) Have had a temporary instruction permit issued pursuant to subsection 1 of section 302.130 for at least a six-month

period or a valid license from another state; and

(4) Have a parent, grandparent, legal guardian, or, if the applicant is a participant in a federal residential job training program, a driving instructor employed by a federal residential job training program, sign the application stating that the applicant has completed at least forty hours of supervised driving experience under a temporary instruction permit issued pursuant to subsection 1 of section 302.130, or, if the applicant is an emancipated minor, the person over twenty-one years of age who supervised such driving. For purposes of this section, the term "emancipated minor" means a person who is at least sixteen years of age, but less than eighteen years of age, who:

(a) Marries with the consent of the legal custodial parent or legal guardian pursuant to section 451.080;

(b) Has been declared emancipated by a court of competent jurisdiction;

(c) Enters active duty in the Armed Forces;

(d) Has written consent to the emancipation from the custodial parent or legal guardian; or

(e) Through employment or other means provides for such person's own food, shelter and other cost-of-living expenses;

(5) Have had no alcohol-related enforcement contacts as defined in section 302.525 during the preceding twelve months; and

(6) Have no nonalcoholic traffic convictions for which points are assessed pursuant to section 302.302, within the preceding six months.

2. An intermediate driver's license grants the licensee the

same privileges to operate that classification of motor vehicle as a license issued pursuant to section 302.177, except that no person shall operate a motor vehicle on the highways of this state under such an intermediate driver's license between the hours of 1:00 a.m. and 5:00 a.m. unless accompanied by a person described in subsection 1 of section 302.130; except the licensee may operate a motor vehicle without being accompanied if the travel is to or from a school or educational program or activity, a regular place of employment or in emergency situations as defined by the director by regulation.

3. Each intermediate driver's license shall be restricted by requiring that the driver and all passengers in the licensee's vehicle wear safety belts at all times. This safety belt restriction shall not apply to a person operating a motorcycle. For the first six months after issuance of the intermediate driver's license, the holder of the license shall not operate a motor vehicle with more than one passenger who is under the age of nineteen who is not a member of the holder's immediate family. As used in this subsection, an intermediate driver's license holder's immediate family shall include brothers, sisters, stepbrothers or stepsisters of the driver, including adopted or foster children residing in the same household of the intermediate driver's license holder. After the expiration of the first six months, the holder of an intermediate driver's license shall not operate a motor vehicle with more than three passengers who are under nineteen years of age and who are not members of the holder's immediate family. The passenger restrictions of this subsection shall not be applicable to any

intermediate driver's license holder who is operating a motor vehicle being used in agricultural work-related activities.

4. Notwithstanding the provisions of section 302.177 to the contrary, the fee for an intermediate driver's license shall be five dollars and such license shall be valid for a period of two years.

5. Any intermediate driver's licensee accumulating six or more points in a twelve-month period may be required to participate in and successfully complete a driver-improvement program approved by the **[**director of the department of public safety**]** state highways and transportation commission. The driver-improvement program ordered by the director of revenue shall not be used in lieu of point assessment.

6. (1) An intermediate driver's licensee who has, for the preceding twelve-month period, had no alcohol-related enforcement contacts, as defined in section 302.525 and no traffic convictions for which points are assessed, upon reaching the age of eighteen years or within the thirty days immediately preceding their eighteenth birthday may apply for and receive without further examination, other than a vision test as prescribed by section 302.173, a license issued pursuant to this chapter granting full driving privileges. Such person shall pay the required fee for such license as prescribed in section 302.177.

(2) If an intermediate driver's license expires on a Saturday, Sunday, or legal holiday, such license shall remain valid for the five business days immediately following the expiration date. In no case shall a licensee whose intermediate driver's license expires on a Saturday, Sunday, or legal holiday

be guilty of an offense of driving with an expired or invalid driver's license if such offense occurred within five business days immediately following an expiration date that occurs on a Saturday, Sunday, or legal holiday.

(3) The director of revenue shall deny an application for a full driver's license until the person has had no traffic convictions for which points are assessed for a period of twelve months prior to the date of application for license or until the person is eligible to apply for a six-year driver's license as provided for in section 302.177, provided the applicant is otherwise eligible for full driving privileges. An intermediate driver's license shall expire when the licensee is eligible and receives a full driver's license as prescribed in subdivision (1) of this section.

7. No person upon reaching the age of eighteen years whose intermediate driver's license and driving privilege is denied, suspended, cancelled or revoked in this state or any other state for any reason may apply for a full driver's license until such license or driving privilege is fully reinstated. Any such person whose intermediate driver's license has been revoked pursuant to the provisions of sections 302.010 to 302.540 shall, upon receipt of reinstatement of the revocation from the director, pass the complete driver examination, apply for a new license, and pay the proper fee before again operating a motor vehicle upon the highways of this state.

8. A person shall be exempt from the intermediate licensing requirements if the person has reached the age of eighteen years and meets all other licensing requirements.

9. Any person who violates any of the provisions of this section relating to intermediate drivers' licenses or the provisions of section 302.130 relating to temporary instruction permits is guilty of an infraction, and no points shall be assessed to his or her driving record for any such violation.

10. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.

311.650. The principal office of the supervisor of liquor control shall be at the seat of government at Jefferson City, and the director of the division of facilities management, design and construction at the capitol shall provide offices for the liquor control department.

313.210. The "State Lottery Commission" is hereby created. The commission shall control and manage the state lottery. The principal office of the commission shall be located in Jefferson City in quarters provided by the division of facilities management, design and construction. That division shall also arrange for other needed office space for the commission or its staff. The commission shall be assigned to the department of

revenue as a type III division, but the director of the department of revenue has no supervision, authority or control over the actions or decisions of the lottery commission or the director of the state lottery.

320.260. The division of facilities management, design and construction shall provide office space for the state fire marshal and his or her employees.

324.032. The division of professional registration shall maintain, for each board in the division, a registry of each person holding a current license, permit, or certificate issued by that board. The registry shall contain the name, Social Security number, and address of each person licensed or registered together with other relevant information as determined by the board. The registry for each board shall at all times be available to the board and copies shall be supplied to the board on request. Copies of the registry, except for the registrant's Social Security number, shall be available from the division or the board to any individual who pays the reasonable copying cost. Any individual may copy the registry during regular business hours. The information in the registry shall be furnished upon request to the family support division **[**of child support enforcement**]**. Questions concerning the currency of license of any individual shall be answered, without charge, by the appropriate board. Each year each board may publish, or cause to be published, a directory containing the name and address of each person licensed or registered for the current year together with any other information the board deems necessary. Any expense incurred by the state relating to such publication shall be

charged to the board. An official copy of any such publication shall be filed with the director.

334.125. 1. The board shall have a common seal and shall formulate rules and regulations to govern its actions. Provision shall be made by the division of facilities management, design and construction for office facilities in Jefferson City, Missouri, where the records and register of the board shall be maintained.

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

338.314. Nothing in sections 338.010 to 338.315 shall authorize the board of pharmacy to conduct an inspection of a long-term care facility licensed under the provisions of chapter 198 by the Missouri **[**division of aging or its successors**]** department of health and senior services, except that the board of pharmacy may inspect any licensed pharmacy located within a long-term care facility. However, the provisions of sections 338.010 to 338.315 shall apply to all individuals licensed as a pharmacist and practicing pharmacy as defined in section 338.010.

361.010. 1. There is hereby created a "State Division of Finance", which shall be under the management and control of a chief officer who shall be called the "Director of Finance".

2. The director of finance shall maintain his or her office at the City of Jefferson, reside in the state of Missouri, and shall devote all of his or her time to the duties of his or her office. The division of facilities management, design and construction is hereby required to provide the director of

finance and the state division of finance with suitable rooms.

3. The division of finance with all of its powers, duties, and functions is assigned by type III transfer under the authority of the Omnibus State Reorganization Act of 1974 and executive order 06-04 to the department of insurance, financial institutions and professional registration. All of the general provisions, definitions, and powers enumerated in section 1 of the Omnibus State Reorganization Act of 1974 and executive order 06-04 shall apply to this department and its divisions, agencies, and personnel.

4. Wherever the laws, rules, or regulations of this state make reference to the "division of finance of the department of economic development" or to the "division of finance", such references shall be deemed to refer to the division of finance of the department of insurance, financial institutions and professional registration.

376.819. To the extent that payment has been made by the MO HealthNet division **[**of medical services**]** for health care items or services furnished to a Medicaid-eligible individual, the MO HealthNet division **[**of medical services**]** is considered to have acquired the rights of the Medicaid-eligible individual to payment by any insurer or other party obligated to cover such health care items or services.

452.345. 1. As used in sections 452.345 to 452.350, the term "IV-D case" shall mean a case in which support rights have been assigned to the state of Missouri or where the family support division **[**of child support enforcement**]** is providing support enforcement services pursuant to section 454.400.

2. At any time the court, upon its own motion, may, or upon the motion of either party shall, order that maintenance or support payments be made to the circuit clerk as trustee for remittance to the person entitled to receive the payments. The circuit clerk shall remit such support payments to the person entitled to receive the payments within three working days of receipt by the circuit clerk. Circuit clerks shall deposit all receipts no later than the next working day after receipt. Payment by a nonguaranteed negotiable financial instrument occurs when the instrument has cleared the depository institution and has been credited to the trust account. Effective October 1, 1999, at any time the court may upon its own motion, or shall upon the motion of either party, order that support payments as required by section 454.530 be made to the family support payment center established in section 454.530 as trustee for remittance to the person entitled to receive the payments. However, in no case shall the court order payments to be made to the payment center if the <u>family support</u> division **[**of child support enforcement**]** notifies the court that such payments shall not be made to the center. In such cases, payments shall be made to the clerk as trustee until the division notifies the court that payments shall be directed to the payment center. Further, with the agreement of the division, the court may order payments to be made to the payment center prior to October 1, 1999.

3. The circuit clerk shall maintain records in the automated child support system which list the amount of payments, the date when payments are required to be made, and the names and addresses of the parties affected by the order. Nothing in this

section shall prohibit the family support division [of child support enforcement] from entering information in the records of the automated child support system, as provided for in chapter 454.

4. The parties affected by the order shall inform the circuit clerk or the payment center established in section 454.530 of any change of address or of other conditions that may affect the administration of the order.

5. For any case in which an order for support or maintenance was entered prior to January 1, 1994, which has not been modified subsequent to that date, except a IV-D case, if a party becomes delinquent in maintenance or support payments in an amount equal to one month's total support obligation, the provisions of this subsection shall apply. If the circuit clerk has been appointed trustee under subsection 2 of this section, or if the person entitled to receive the payments files with the clerk an affidavit stating the particulars of the obligor's noncompliance, the circuit clerk shall send by regular mail notice of the delinquency to the obligor. This notice shall advise the obligor of the delinquency, shall state the amount of the obligation, and shall advise that the obligor's income is subject to withholding for repayment of the delinquency and for payment of current support, as provided in section 452.350. For such cases, the circuit clerk shall, in addition to the notice to the obligor, send by regular mail a notice to the obligee. This notice shall state the amount of the delinquency and shall advise the obligee that income withholding, pursuant to section 452.350, is available for collection of support delinquencies and current

support, and if the support order includes amounts for child support, that support enforcement services, pursuant to section 454.425, are available through the Missouri family support division [of child support enforcement] of the department of social services.

452.346. Upon written request of a parent of a child, as defined in section [452.302] 452.160, who is receiving medical assistance pursuant to section 208.151, the family support division [of child support enforcement] shall provide such parent with documentation that allows the child to obtain medical assistance. This section shall not apply to parents of children in the custody of a public agency.

452.347. In any proceeding before a court where child support may be established or modified for an applicant or recipient of child support services pursuant to chapter 454:

(1) The applicant or recipient of child support enforcement services shall be provided by any other party with notice pursuant to Rule 41 of the Missouri rules of civil procedures of all proceedings in which support obligations may be established or modified. Notice to an attorney representing a party is deemed notice on the party for purposes of this section; and

(2) A copy of any order establishing or modifying a child support obligation, or an order denying a modification shall be mailed to the family support division [of child support enforcement] by the court within fourteen days of issuance of such order.

452.350. 1. Until January 1, 1994, except for orders entered or modified in IV-D cases, each order for child support

or maintenance entered or modified by the court pursuant to the authority of this chapter, or otherwise, shall include a provision notifying the person obligated to pay such support or maintenance that, upon application by the obligee or the Missouri family support division **[**of child support enforcement**]** of the department of social services, the obligor's wages or other income shall be subject to withholding without further notice if the obligor becomes delinquent in maintenance or child support payments in an amount equal to one month's total support obligation. The order shall also contain provisions notifying the obligor that:

(1) The withholding shall be for the current month's maintenance and support; and

(2) The withholding shall include an additional amount equal to fifty percent of one month's child support and maintenance to defray delinquent child support and maintenance, which additional withholding shall continue until the delinquency is paid in full.

2. For all orders entered or modified in IV-D cases, and effective January 1, 1994, for every order for child support or maintenance entered or modified by the court pursuant to the authority of this chapter, or otherwise, income withholding pursuant to this section shall be initiated on the effective date of the order, except that such withholding shall not commence with the effective date of the order in any case where:

(1) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding. For purposes of this subdivision, any finding that

there is good cause not to require immediate withholding must be based on, at least, a written determination and an explanation by the court that implementing immediate wage withholding would not be in the best interests of the child and proof of timely payments of previously ordered support in cases involving the modification of support orders; or

(2) A written agreement is reached between the parties that provides for an alternative arrangement. If the income of an obligor is not withheld as of the effective date of the support order, pursuant to subdivision (1) or (2) of this subsection, or otherwise, such obligor's income shall become subject to withholding pursuant to this section without further exception on the date on which the obligor becomes delinquent in maintenance or child support payments in an amount equal to one month's total support obligation. Such withholding shall be initiated in the manner provided in subsection 4 of this section. All IV-D orders entered or modified by the court shall contain a provision notifying the obligor that he or she shall notify the <u>family support</u> division **[**of child support enforcement**]** regarding the availability of medical insurance coverage through an employer or a group plan, provide the name of the insurance provider when coverage is available, and inform the division of any change in access to such insurance coverage. Any income withheld pursuant to this section for a support order initially entered on or after October 1, 1999, shall be paid to the payment center pursuant to section 454.530. Any order of the court entered on or after October 1, 1999, establishing the withholding for a support order as defined in section 454.460, or notice from the clerk issued on

or after October 1, 1999, pursuant to this section for a support order shall require payment to the payment center pursuant to section 454.530.

3. The provisions of section 432.030 to the contrary notwithstanding, if income withholding has not been initiated on the effective date of the initial or modified order, the obligated party may execute a voluntary income assignment at any time, which assignment shall be filed with the court and shall take effect after service on the employer or other payer.

4. The circuit clerk, upon application of the obligee or the family support division [of child support enforcement], shall send, by certified mail, return receipt requested, a written notice to the employer or other payer listed on the application when the obligated party is subject to withholding pursuant to the child support order or subsection 2 of this section. For orders entered or modified in cases known by the circuit clerk to be IV-D cases in which income withholding is to be initiated on the effective date of the order, and effective January 1, 1994, for all orders entered or modified by the court in which income withholding is to be initiated on the effective date of the order, the circuit clerk shall send such notice to the employer or other payer in the manner provided by this section at the time the order is entered without application of any party when an employer or other payer is identified to the circuit clerk by inclusion in the pleadings pursuant to section 452.312, or otherwise. The notice of income withholding shall be prepared by the person entitled to support pursuant to the order, or the legal representative of that person, on a form prescribed by the

court, and shall be presented to the clerk of the court at the time the order of support is entered. The notice shall direct the employer or other payer to withhold each month an amount equal to one month's child support and maintenance until further notice from the court. In the event of a delinquency in child support or maintenance payments in an amount equal to one month's total support obligation, the notice further shall direct the employer or other payer to withhold each month an additional amount equal to fifty percent of one month's child support and maintenance until the support delinquency is paid in full. The notice shall also include a statement of exemptions which may apply to limit the portion of the obligated party's disposable earnings which are subject to the withholding pursuant to federal or state law and notify the obligor that the obligor may request a hearing and related information pursuant to this section. The notice shall contain the Social Security number of the obligor if available. The circuit clerk shall send a copy of this notice by regular mail to the last known address of the obligated party. A notice issued pursuant to this section shall be binding on the employer or other payer, and successor employers and payers, two weeks after mailing, and shall continue until further order of the court or the <u>family support</u> division **[**of child support enforcement**]**. If the notice does not contain the Social Security number of the obligor, the employer or other payer shall not be liable for withholding from the incorrect obligor. The obligated party may, within that two-week period, request a hearing on the issue of whether the withholding should take effect. The withholding shall not be held in abeyance pending the outcome of

the hearing. The obligor may not obtain relief from the withholding by paying overdue support, if any. The only basis for contesting the withholding is a mistake of fact. For the purpose of this section, "mistake of fact" shall mean an error in the amount of arrearages, if applicable, or an error as to the identity of the obligor. The court shall hold its hearing, enter its order disposing of all issues disputed by the obligated party, and notify the obligated party and the employer or other payer, within forty-five days of the date on which the withholding notice was sent to the employer.

5. For each payment the employer may charge a fee not to exceed six dollars per month, which shall be deducted from each obligor's moneys, income or periodic earnings, in addition to the amount deducted to meet the support or maintenance obligation subject to the limitations contained in the federal Consumer Credit Protection Act (15 U.S.C. 1673).

6. Upon termination of the obligor's employment with an employer upon whom a withholding notice has been served, the employer shall so notify the court in writing. The employer shall also inform the court, in writing, as to the last known address of the obligor and the name and address of the obligor's new employer, if known.

7. Amounts withheld by the employer or other payer shall be transmitted, in accordance with the notice, within seven business days of the date that such amounts were payable to the obligated party. For purposes of this section, "business day" means a day that state offices are open for regular business. The employer or other payer shall, along with the amounts transmitted, provide

the date each amount was withheld from each obligor. If the employer or other payer is withholding amounts for more than one order, the employer or other payer may combine all such withholdings that are payable to the same circuit clerk or the family support payment center and transmit them as one payment, together with a separate list identifying the cases to which they apply. The cases shall be identified by court case number, name of obligor, the obligor's Social Security number, the IV-D case number, if any, the amount withheld for each obligor, and the withholding date or dates for each obligor, to the extent that such information is known to the employer or other payer. An employer or other payer who fails to honor a withholding notice pursuant to this section may be held in contempt of court and is liable to the obligee for the amount that should have been withheld. Compliance by an employer or other payer with the withholding notice operates as a discharge of liability to the obligor as to that portion of the obligor's periodic earnings or other income so affected.

8. As used in this section, the term "employer" includes the state and its political subdivisions.

9. An employer shall not discharge or otherwise discipline, or refuse to hire, an employee as a result of a withholding notice issued pursuant to this section. Any obligor who is aggrieved as a result of a violation of this subsection may bring a civil contempt proceeding against the employer by filing an appropriate motion in the cause of action from which the withholding notice issued. If the court finds that the employer discharged, disciplined, or refused to hire the obligor as a

result of the withholding notice, the court may order the employer to reinstate or hire the obligor, or rescind any wrongful disciplinary action. If, after the entry of such an order, the employer refuses without good cause to comply with the court's order, or if the employer fails to comply with the withholding notice, the court may, after notice to the employer and a hearing, impose a fine against the employer, not to exceed five hundred dollars. Proceeds of any such fine shall be distributed by the court to the county general revenue fund.

10. A withholding entered pursuant to this section may, upon motion of a party and for good cause shown, be amended by the court. The clerk shall notify the employer of the amendment in the manner provided for in subsection 4 of this section.

11. The court, upon the motion of obligor and for good cause shown, may terminate the withholding, except that the withholding shall not be terminated for the sole reason that the obligor has fully paid past due child support and maintenance.

12. A withholding effected pursuant to this section shall have priority over any other legal process pursuant to state law against the same wages, except that where the other legal process is an order issued pursuant to this section or section 454.505, the processes shall run concurrently, up to applicable wage withholding limitations. If concurrently running wage withholding processes for the collection of support obligations would cause the amounts withheld from the wages of the obligor to exceed applicable wage withholding limitations and includes a wage withholding from another state pursuant to section 454.932, the employer shall first satisfy current support obligations by

dividing the amount available to be withheld among the orders on a pro rata basis using the percentages derived from the relationship each current support order amount has to the sum of all current child support obligations. Thereafter, delinquencies shall be satisfied using the same pro rata distribution procedure used for distributing current support, up to the applicable limitation. If concurrently running wage withholding processes for the collection of support obligations would cause the amounts withheld from the wages of the obligor to exceed applicable wage withholding limitations and does not include a wage withholding from another state pursuant to section 454.932, the employer shall withhold and pay to the payment center an amount equal to the wage withholding limitations. The payment center shall first satisfy current support obligations by dividing the amount available to be withheld among the orders on a pro rata basis using the percentages derived from the relationship each current support order amount has to the sum of all current child support obligations. Thereafter, arrearages shall be satisfied using the same pro rata distribution procedure used for distributing current support, up to the applicable limitation.

13. The remedy provided by this section applies to child support and maintenance orders entered prior to August 13, 1986, notwithstanding the absence of the notice to the obligor provided for in subsection 1 of this section, provided that prior notice from the circuit clerk to the obligor in the manner prescribed in subsection 5 of section 452.345 is given.

14. Notwithstanding any provisions of this section to the contrary, in a case in which support rights have been assigned to

the state or in which the family support division [of child support enforcement] is providing support enforcement services pursuant to section 454.425, the director of the family support division [of child support enforcement] may amend or terminate a withholding order issued pursuant to this section, as provided in this subsection without further action of the court. The director may amend or terminate a withholding order and issue an administrative withholding order pursuant to section 454.505 when the director determines that children for whom the support order applies are no longer entitled to support pursuant to section 452.340, when the support obligation otherwise ends and all arrearages are paid, when the support obligation is modified pursuant to section 454.500, or when the director enters an order that is approved by the court pursuant to section 454.496. The director shall notify the employer and the circuit clerk of such amendment or termination. The director's administrative withholding order or withholding termination order shall preempt and supersede any previous judicial withholding order issued pursuant to this or any other section.

15. For the purpose of this section, "income" means any periodic form of payment due to an individual, regardless of source, including wages, salaries, commissions, bonuses, workers' compensation benefits, disability benefits, payments pursuant to a pension or a retirement program and interest.

16. If the secretary of the Department of Health and Human Services promulgates a final standard format for an employer income withholding notice, the court shall use or require the use of such notice.

452.370. 1. Except as otherwise provided in subsection 6 of section 452.325, the provisions of any judgment respecting maintenance or support may be modified only upon a showing of changed circumstances so substantial and continuing as to make the terms unreasonable. In a proceeding for modification of any child support or maintenance judgment, the court, in determining whether or not a substantial change in circumstances has occurred, shall consider all financial resources of both parties, including the extent to which the reasonable expenses of either party are, or should be, shared by a spouse or other person with whom he or she cohabits, and the earning capacity of a party who is not employed. If the application of the child support guidelines and criteria set forth in section 452.340 and applicable supreme court rules to the financial circumstances of the parties would result in a change of child support from the existing amount by twenty percent or more, a prima facie showing has been made of a change of circumstances so substantial and continuing as to make the present terms unreasonable, if the existing amount was based upon the presumed amount pursuant to the child support guidelines.

2. When the party seeking modification has met the burden of proof set forth in subsection 1 of this section, the child support shall be determined in conformity with criteria set forth in section 452.340 and applicable supreme court rules.

3. Unless otherwise agreed in writing or expressly provided in the judgment, the obligation to pay future statutory maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.

4. Unless otherwise agreed in writing or expressly provided in the judgment, provisions for the support of a child are terminated by emancipation of the child. The parent entitled to receive child support shall have the duty to notify the parent obligated to pay support of the child's emancipation and failing to do so, the parent entitled to receive child support shall be liable to the parent obligated to pay support for child support paid following emancipation of a minor child, plus interest.

5. If a parent has made an assignment of support rights to the family support division **[**of family services**]** on behalf of the state as a condition of eligibility for benefits pursuant to the Temporary Assistance for Needy Families program and either party initiates a motion to modify the support obligation by reducing it, the state of Missouri shall be named as a party to the proceeding. The state shall be served with a copy of the motion by sending it by certified mail to the director of the family support division **[**of child support enforcement**]**.

6. The court shall have continuing personal jurisdiction over both the obligee and the obligor of a court order for child support or maintenance for the purpose of modifying such order. Both obligee and obligor shall notify, in writing, the clerk of the court in which the support or maintenance order was entered of any change of mailing address. If personal service of the motion cannot be had in this state, the motion to modify and notice of hearing shall be served outside the state as provided by supreme court rule 54.14. The order may be modified only as to support or maintenance installments which accrued subsequent to the date of personal service. For the purpose of 42 U.S.C.

666(a)(9)(C), the circuit clerk shall be considered the "appropriate agent" to receive notice of the motion to modify for the obligee or the obligor, but only in those instances in which personal service could not be had in this state.

7. If a responsive pleading raising the issues of custody or visitation is filed in response to a motion to modify child support filed at the request of the family support division **[**of child support enforcement**]** by a prosecuting attorney or circuit attorney or an attorney under contract with the division, such responsive pleading shall be severed upon request.

8. Notwithstanding any provision of this section which requires a showing of substantial and continuing change in circumstances, in a IV-D case filed pursuant to this section by the family support division **[**of child support enforcement**]** as provided in section 454.400, the court shall modify a support order in accordance with the guidelines and criteria set forth in supreme court rule 88.01 and any regulations thereunder if the amount in the current order differs from the amount which would be ordered in accordance with such guidelines or regulations.

452.416. 1. Notwithstanding any other provision of law to the contrary, whenever a parent in emergency military service has a change in income due to such military service, such change in income shall be considered a change in circumstances so substantial and continuing as to make the terms of any order or judgment for child support or visitation unreasonable.

2. Upon receipt of a notarized letter from the commanding officer of a noncustodial parent in emergency military service which contains the date of the commencement of emergency military

service and the compensation of the parent in emergency military service, the director of the family support division [of child support enforcement] shall take appropriate action to seek modification of the order or judgment of child support in accordance with the guidelines and criteria set forth in section 452.340 and applicable supreme court rules. Such notification to the director shall constitute an application for services under section 454.425.

3. Upon return from emergency military service the parent shall notify the director of the family support division [of child support enforcement] who shall take appropriate action to seek modification of the order or judgment of child support in accordance with the guidelines and criteria set forth in section 452.340 and applicable supreme court rules. Such notification to the director shall constitute an application for services under section 454.425.

4. As used in this section, the term "emergency military service" means that the parent is a member of a reserve unit or National Guard unit which is called into active military duty for a period of more than thirty days.

453.005. 1. The provisions of sections 453.005 to 453.400 shall be construed so as to promote the best interests and welfare of the child in recognition of the entitlement of the child to a permanent and stable home.

2. The children's division [of family services] and all persons involved in the adoptive placement of children as provided in subdivisions (1), (2) and (4) of section 453.014 shall provide for the diligent recruitment of potential adoptive

homes that reflect the ethnic and racial diversity of children in the state for whom adoptive homes are needed.

3. Placement of a child in an adoptive home may not be delayed or denied on the basis of race, color or national origin.

453.014. 1. The following persons may place a minor for adoption:

(1) The children's division **[**of family services**]** of the department of social services;

(2) A child placing agency licensed pursuant to sections 210.481 to 210.536;

(3) The child's parents, without the direct or indirect assistance of an intermediary, in the home of a relative of the child within the third degree;

(4) An intermediary, which shall include an attorney licensed pursuant to chapter 484; a physician licensed pursuant to chapter 334; or a clergyman of the parents.

2. All persons granted the authority to place a minor child for adoption as designated in subdivision (1), (2) or (4) of subsection 1 of this section shall comply with the rules and regulations promulgated by the department of social services and the department of health and senior services for such placement.

3. The children's division of the department of social services**[**, division of family services**]** and the department of health and senior services shall promulgate rules and regulations regarding the placement of a minor for adoption.

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

453.015. As used in sections 453.010 to 453.400, the following terms mean:

(1) "Minor" or "child", any person who has not attained the age of eighteen years or any person in the custody of the children's division **[**of family services**]** who has not attained the age of twenty-one;

(2) "Parent", a birth parent or parents of a child, including the putative father of the child, as well as the husband of a birth mother at the time the child was conceived, or a parent or parents of a child by adoption. The putative father shall have no legal relationship unless he has acknowledged the child as his own by affirmatively asserting his paternity;

(3) "Putative father", the alleged or presumed father of a child including a person who has filed a notice of intent to claim paternity with the putative father registry established in section 192.016 and a person who has filed a voluntary acknowledgment of paternity pursuant to section 193.087; and

(4) "Stepparent", the spouse of a biological or adoptive parent. The term does not include the state if the child is a ward of the state. The term does not include a person whose parental rights have been terminated.

453.026. 1. As early as is practical before a prospective adoptive parent accepts physical custody of a child, the person placing the child for adoption, as authorized by section 453.014, shall furnish to the court, the guardian ad litem and the prospective adoptive parent a written report regarding the child.

2. The person placing the child shall not be held liable for incorrect information as provided by others or unintentional

errors when making the written report.

3. The children's division of the department of social services[, division of family services] shall promulgate rules and regulations regarding all written information that shall be furnished to the court, the guardian ad litem and the prospective adoptive parent.

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

453.065. As used in sections 453.065 to 453.074, the following words and terms shall have the meanings indicated:

(1) "Child", a person within the state who is under the age of eighteen or in the custody of the children's division [of family services] who is in need of medical, dental, educational, mental or other related health services and treatment, as defined in this section, or who belongs to a racial or ethnic minority, who is five years of age or older, or who is a member of a sibling group, and for whom an adoptive home is not readily available. If the physical, dental or mental condition of the child requires care after the age of eighteen, payment can be continued with the approval of the children's division [of family services] of the department of social services and subject to annual review;

(2) "Diminishing allotment", a monthly payment which periodically diminishes over a period of not longer than four years at which time it ceases;

(3) "Long term subsidy", a continuous monthly payment toward the child's care for a period of more than four years;

(4) "Special services", an allotment to a child who is in need of medical, dental, educational, mental health or other related health services and treatment, including treatment for physical handicap, intellectual impairment, developmental disability, mental or emotional disturbance, social maladjustment;

(5) "Time limited subsidy", a monthly allotment which is continued for a limited time after legal adoption, not exceeding four years. This compensation is to aid the family in integrating the care of the new child in their home.

453.070. 1. Except as provided in subsection 5 of this section, no decree for the adoption of a child under eighteen years of age shall be entered for the petitioner or petitioners in such adoption as ordered by the juvenile court having jurisdiction, until a full investigation, which includes an assessment of the adoptive parents, an appropriate postplacement assessment and a summary of written reports as provided for in section 453.026, and any other pertinent information relevant to whether the child is suitable for adoption by the petitioner and whether the petitioner is suitable as a parent for the child, has been made. The report shall also include a statement to the effect that the child has been considered as a potential subsidy recipient.

2. Such investigation shall be made, as directed by the court having jurisdiction, either by the children's division **[**of family services**]** of the department of social services, a juvenile court officer, a licensed child-placement agency, a social worker, a professional counselor, or a psychologist licensed

under chapter 337 and associated with a licensed child-placement agency, or other suitable person appointed by the court. The results of such investigation shall be embodied in a written report that shall be submitted to the court within ninety days of the request for the investigation.

3. The **[**department of social services, division of family services,**]** children's division shall develop rules and regulations regarding the content of the assessment of the petitioner or petitioners. The content of the assessment shall include but not be limited to a report on the condition of the petitioner's home and information on the petitioner's education, financial, marital, medical and psychological status and criminal background check. If an assessment is conducted after August 28, 1997, but prior to the promulgation of rules and regulations by the department concerning the contents of such assessment, any discrepancy between the contents of the actual assessment and the contents of the assessment required by department rule shall not be used as the sole basis for invalidating an adoption. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536.

4. The assessment of petitioner or petitioners shall be submitted to the petitioner and to the court prior to the scheduled hearing of the adoptive petition.

5. In cases where the adoption or custody involves a child under eighteen years of age that is the natural child of one of the petitioners and where all of the parents required by this chapter to give consent to the adoption or transfer of custody

have given such consent, the juvenile court may waive the investigation and report, except the criminal background check, and enter the decree for the adoption or order the transfer of custody without such investigation and report.

6. In the case of an investigation and report made by the children's division [of family services] by order of the court, the court may order the payment of a reasonable fee by the petitioner to cover the costs of the investigation and report.

7. Any adult person or persons over the age of eighteen who, as foster parent or parents, have cared for a foster child continuously for a period of nine months or more and bonding has occurred as evidenced by the positive emotional and physical interaction between the foster parent and child, may apply to such authorized agency for the placement of such child with them for the purpose of adoption if the child is eligible for adoption. The agency and court shall give preference and first consideration for adoptive placements to foster parents. However, the final determination of the propriety of the adoption of such foster child shall be within the sole discretion of the court.

8. (1) Nothing in this section shall be construed to permit discrimination on the basis of disability or disease of a prospective adoptive parent.

(2) The disability or disease of a prospective adoptive parent shall not constitute a basis for a determination that the petitioner is unfit or not suitable to be an adoptive parent without a specific showing that there is a causal relationship between the disability or disease and a substantial and

significant risk of harm to a child.

453.074. 1. The children's division [of family services] shall have the following duties in the administration of the subsidy program:

(1) Notify all petitioners for adoption of the availability of subsidies for a child;

(2) Provide all petitioners for adoption with the rules and eligibility requirements for subsidies;

(3) Inform the parents of a child receiving a subsidy of reductions or other modifications in the terms and conditions of the written agreement;

(4) Establish procedures for the resolution of disputes involving the delay, denial, amount or type of subsidy;

(5) File an annual report to the legislature in the budget proposal on the adoption subsidy program, including but not limited to, the number and types of subsidies being paid, an accounting of state and federal funds expended, and a projection of future monetary needs to maintain the subsidy program;

(6) Comply with all federal laws relating to adoption subsidies in order to maintain the eligibility of the state of Missouri for federal funds.

2. The provisions of this section shall not apply to the adoption of a child by the spouse of a biological parent or an adoptive parent.

453.077. 1. When a child has been placed with the petitioner for the required six-month placement period, the person conducting the preplacement assessment of the adoption or other persons authorized to conduct assessments pursuant to

section 453.070 shall provide the court with a postplacement assessment. The specific content of which shall be determined by rule by the children's division of the department of social services[, division of family services]. The postplacement assessment shall include an update of the preplacement assessment which was submitted to the court pursuant to section 453.070, and a report on the emotional, physical and psychological status of the child. If an assessment is conducted after August 28, 1997, but prior to the promulgation of rules and regulations by the department concerning the contents of such assessment, any discrepancy between the contents of the actual assessment and the contents of the assessment required by department rule shall not be used as the sole basis for invalidating an adoption.

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

453.102. 1. After an adoptive placement has been made, the children's division [of family services] or other child-placing agency shall inform the adoptive parents of postplacement services available to them and the child. Such services may include, aiding the family in contacting adoptive family support groups, providing family counseling, periodic visitation by the agency and any other resources or services that would assist the family and the child in adjusting to the adoption.

2. In the event that an adoptive placement or a final adoption is disrupted resulting in the removal of the child from the home of the adoptive parents, the children's division [of family services] or other child-placing agency shall assist the

parents and the child by providing or arranging contact with support groups, counseling or any other service deemed necessary to aid the family and the child in adjusting to the removal.

453.110. 1. No person, agency, organization or institution shall surrender custody of a minor child, or transfer the custody of such a child to another, and no person, agency, organization or institution shall take possession or charge of a minor child so transferred, without first having filed a petition before the circuit court sitting as a juvenile court of the county where the child may be, praying that such surrender or transfer may be made, and having obtained such an order from such court approving or ordering transfer of custody.

2. If any such surrender or transfer is made without first obtaining such an order, such court shall, on petition of any public official or interested person, agency, organization or institution, order an investigation and report as described in section 453.070 to be completed by the children's division **[**of family services**]** and shall make such order as to the custody of such child in the best interest of such child.

3. Any person violating the terms of this section shall be guilty of a class D felony.

4. The investigation required by subsection 2 of this section shall be initiated by the children's division **[**of family services**]** within forty-eight hours of the filing of the court order requesting the investigation and report and shall be completed within thirty days. The court shall order the person having custody in violation of the provisions of this section to pay the costs of the investigation and report.

5. This section shall not be construed to prohibit any parent, agency, organization or institution from placing a child with another individual for care if the right to supervise the care of the child and to resume custody thereof is retained, or from placing a child with a licensed foster home within the state through a child-placing agency licensed by this state as part of a preadoption placement.

6. After the filing of a petition for the transfer of custody for the purpose of adoption, the court may enter an order of transfer of custody if the court finds all of the following:

(1) A family assessment has been made as required in section 453.070 and has been reviewed by the court;

(2) A recommendation has been made by the guardian ad litem;

(3) A petition for transfer of custody for adoption has been properly filed or an order terminating parental rights has been properly filed;

(4) The financial affidavit has been filed as required under section 453.075;

(5) The written report regarding the child who is the subject of the petition containing the information has been submitted as required by section 453.026;

(6) Compliance with the Indian Child Welfare Act, if applicable; and

(7) Compliance with the Interstate Compact on the Placement of Children pursuant to section 210.620.

7. A hearing on the transfer of custody for the purpose of adoption is not required if:

(1) The conditions set forth in subsection 6 of this section are met;

(2) The parties agree and the court grants leave; and

(3) Parental rights have been terminated pursuant to section 211.444 or 211.447.

453.400. 1. A stepparent shall support his or her stepchild to the same extent that a natural or adoptive parent is required to support his or her child so long as the stepchild is living in the same home as the stepparent. However, nothing in this section shall be construed as abrogating or in any way diminishing the duty a parent otherwise would have to provide child support, and no court shall consider the income of a stepparent, or the amount actually provided for a stepchild by a stepparent, in determining the amount of child support to be paid by a natural or adoptive parent.

2. A natural or adoptive parent shall be liable to a stepparent for the sum of money expended by a stepparent for the support of a stepchild when that sum of money was expended because of the neglect or refusal of the natural or adoptive parent to pay any part of or all of the court-ordered amount of support.

3. This section shall not abrogate or diminish the common law right which a stepparent may possess to recover from a natural or adoptive parent the expense of providing necessaries for a stepchild in the absence of a court order for child support determining the amount of support to be paid by a natural or adoptive parent.

4. This section shall not be construed as granting to a

stepparent any right to the care and custody of a stepchild or as granting a stepchild any right to inherit from a stepparent under the general statutory laws governing descent and distribution.

5. This section shall apply without regard to whether public assistance is being provided on behalf of the stepchild or stepchildren in question.

6. This section shall be construed to apply only to support obligations incurred on or after July 1, 1977, notwithstanding that a marriage giving rise to the support obligation occurred prior to July 1, 1977.

7. With respect to section 208.040, this section shall not be construed to render a child ineligible for public assistance on the basis of the child's not being deprived of parental support, but it shall be construed to permit the inclusion of the income of a stepparent in the determination of eligibility for benefits and in the determination of the amount of the assistance payment.

8. In the determination of eligibility for benefits and in the determination of the amount of the assistance payment under section 208.150, that portion of the stepparent's income, as defined by the <u>family support</u> division **[**of family services**]** in the administration of aid to families with dependent children, shall be considered.

454.400. 1. There is established within the department of social services the "<u>Family Support</u> Division **[**of Child Support Enforcement**]**" to administer the state plan for child support enforcement. The duty pursuant to the state plan to litigate or prosecute support actions shall be performed by the appropriate

prosecuting attorney, or other attorney pursuant to a cooperative agreement with the department. The department shall fully utilize existing IV-A staff of the family support division [of child support enforcement] to perform child support enforcement duties approved by the United States Department of Health and Human Services and consistent with federal requirements as specified in P.L. 93-647 and 45 CFR, section 303.20.

2. In addition to the powers, duties and functions vested in the family support division [of child support enforcement] by other provisions of this chapter or by other laws of this state, the family support division [of child support enforcement] shall have the power:

(1) To sue and be sued;

(2) To make contracts and carry out the duties imposed upon it by this or any other law;

(3) To administer, disburse, dispose of and account for funds, commodities, equipment, supplies or services, and any kind of property given, granted, loaned, advanced to or appropriated by the state of Missouri for any of the purposes herein;

(4) To administer oaths, issue subpoenas for witnesses, examine such witnesses under oath, and make and keep a record of the same;

(5) To adopt, amend and repeal rules and regulations necessary or desirable to carry out the provisions of this chapter and which are not inconsistent with the constitution or laws of this state;

(6) To cooperate with the United States government in matters of mutual concern pertaining to any duties wherein the

family support division [of child support enforcement] is acting as a state agency, including the adoption of such methods of administration as are found by the United States government to be necessary for the efficient operation of the state plan hereunder;

(7) To make such reports in such form and containing such information as the United States government may, from time to time, require, and comply with such provisions as the United States government may, from time to time, find necessary to assure the correctness and verification of such reports;

(8) To appoint, when and if it may deem necessary, advisory committees to provide professional or technical consultation in respect to child support enforcement problems and program administration. The members of such advisory committees shall receive no compensation for their services other than expenses actually incurred in the performance of their official duties. The number of members of each such advisory committee shall be determined by the family support division [of child support enforcement], and such advisory committees shall consult with the family support division [of child support enforcement] in respect to problems and policies incident to the administration of the particular function germane to their respective field of competence;

(9) To initiate or cooperate with other agencies in developing measures for the enforcement of support obligations;

(10) To collect statistics, make special fact-finding studies and publish reports in reference to child support enforcement;

(11) To establish or cooperate in research or demonstration projects relative to child support enforcement and the welfare program which will help improve the administration and effectiveness of programs carried on or assisted pursuant to the federal Social Security Act and the programs related thereto;

(12) To accept gifts and grants of any property, real or personal, and to sell such property and expend such gifts or grants not inconsistent with the administration of the state plan for child support enforcement and within the limitations of the donor thereof;

(13) To review every three years or such shorter cycle as the division may establish, upon the request of the obligee, the obligor or if there is an assignment under Part A of the federal Social Security Act, upon the request of the division, obligee or obligor taking into account the best interest of the child, the adequacy of child support orders in IV-D cases to determine whether modification is appropriate pursuant to the guidelines established by supreme court rule 88.01, to establish rules pursuant to chapter 536, to define the procedure and frequency of such reviews, and to initiate proceedings for modification where such reviews determine that a modification is appropriate. This subdivision shall not be construed to require the division or its designees to represent the interests of an absent parent against the interests of a custodial parent or the state;

(14) To provide services relating to the establishment of paternity and the establishment, modification and enforcement of child support obligations.

The division shall provide such services:

(a) Unless, as provided in this chapter, good cause or other exception exists, to each child for whom:

a. Assistance is provided under the state program funded under Part IV-A of the Social Security Act;

b. Benefits or services for foster care maintenance are provided under the state program funded under Part IV-E of the Social Security Act; or

c. Medical assistance is provided under the state plan approved under Title XIX of the Social Security Act; and

(b) To any other child, if an individual applies for such services with respect to such child;

(15) To enforce support obligations established with respect to:

(a) A child for whom the state provides services under the state plan for child support; or

(b) The custodial parent of a child;

(16) To enforce support orders against the parents of the noncustodial parent, jointly and severally, in cases where such parents have a minor child who is the parent and the custodial parent is receiving assistance under the state program funded under Part A of Title IV of the Social Security Act; and

(17) To prevent a child support debtor from fraudulently transferring property to avoid payment of child support. If the division has knowledge of such transfer, the division shall:

(a) Seek to void such transfer; or

(b) Obtain a settlement in the best interest of the child support creditor.

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

454.403. Notwithstanding any other provision of law to the contrary, applicants for a professional, occupational or recreational license not coming under the purview of the division of professional registration shall be required by the appropriate licensing authority to provide the applicant's Social Security number on any application for a license, permit or certificate, or any renewal of a license, permit or certificate. The family support division [of child support enforcement] is authorized to coordinate with and assist with such licensing authorities to develop procedures to implement this requirement.

454.405. 1. Each county shall cooperate with the family support division [of child support enforcement] in the enforcement of support obligations under the state plan by appropriating a sufficient sum of money for the offices of the prosecuting attorney or, by entering into a multiple county agreement to share the costs of enforcement of support obligations and appropriating sufficient funds for such enforcement, and by appropriating to the circuit clerk a sufficient sum to enable those offices to perform any duty imposed under this law or any other law with respect to the enforcement of support obligations or to the transmittal of support moneys to the family support division [of child support enforcement] for deposit in the state treasury to the credit of the child support enforcement fund.

2. The family support division [of child support

enforcement] shall enter into cooperative agreements with city or county governing bodies or officers, including, but not necessarily limited to, circuit courts, circuit clerks and prosecuting attorneys who choose to enter into a cooperative agreement, except that the director of the family support division [of child support enforcement] may, not less than sixty days prior to the expiration date of an existing cooperative agreement, notify a city or county governing body or officer that the division will not enter into a cooperative agreement because the city or county governing body or officer failed to comply with the terms of the existing cooperative agreement, or with rules established by the division pursuant to subsection 4 of this section. The notice shall be in writing and shall set forth the reason for not entering into a new cooperative agreement. The notice shall be sent by certified mail, return receipt requested, to all city or county signatories of the existing cooperative agreement. Within thirty days of receipt of the notice, the city or county governing body or officer may submit to the director of the family support division [of child support enforcement] objections to the findings of the director, or a proposed plan to bring the city, county or officer into compliance. The director shall respond to the objections or the proposed plan prior to the expiration date of the existing cooperative agreement.

3. The cooperative agreements to be executed shall provide, as a minimum, for the following:

(1) For the governing body of the city or county to hire such additional stenographic, secretarial and administrative

assistants as may be required to administer the child support enforcement program within that jurisdiction or, if the city or county is a participant in a multiple county agreement, to participate in the cost of the additional staff;

(2) For the city or county, upon recommendation of the prosecuting attorney, to hire such additional assistant prosecuting attorneys as may be required to administer the child support enforcement program within that jurisdiction or, if the city or county is a participant in a multiple county agreement, to participate in the cost of attorneys retained for that purpose;

(3) For the city or county to furnish office space and other administrative requirements for the proper administration of the child support enforcement program within that jurisdiction or, if the city or county is a participant in a multiple county agreement, to participate in the cost of the office space and other administrative requirements;

(4) For the reimbursement by the state from moneys received from the federal government of reasonable and necessary costs, as determined by the director of the family support division **[**of child support enforcement**]**, associated with enforcement of support obligations by the county or city or, if applicable, the multiple county unit, at the applicable rate, to be paid at least monthly if properly authenticated vouchers are submitted by the city or county. Payments shall be made no later than thirty days from the date of submission of the vouchers;

(5) For the city or county or, if applicable, the multiple county unit, to maintain financial and performance records

required by federal regulation to be available for inspection by representatives of the department of social services, the state auditor, or the United States Department of Health and Human Services; and

(6) For the payment of incentive payments by the state from moneys received from the federal government as provided by the Social Security Act and federal and state regulations promulgated thereunder. The family support division **[**of child support enforcement**]** shall calculate and promptly pay to the city or county a basic incentive payment not less than the minimum incentive payment rate established by 45 CFR 303.52; provided, however, that the total amount paid as incentives for non-AFDC collections shall not exceed the total amount paid as incentives for AFDC collections, unless otherwise agreed upon in the cooperative agreement between the state and county or city. Incentive payments by the state to the counties shall not occur for any period during which the state does not receive incentive payments from the federal government.

4. The family support division **[**of child support enforcement**]** shall have the authority to promulgate rules pursuant to this section, section 454.400 and chapter 536 in order to establish criteria for record keeping and performance relating to the effective administration of the child support enforcement program, which shall apply to a city or county office or officer, or multiple county unit, with whom a cooperative agreement is entered. The division may cancel a cooperative agreement with a city or county office if the office fails to comply with the rules established under this subsection, or fails

to comply with the terms of the cooperative agreement. The division director shall notify the city or county governing body or officer in writing, setting forth the reason for the cancellation. Notice of cancellation shall be sent by certified mail, return receipt requested, to all city or county signatories of the cooperative agreement, and shall be mailed at least sixty days prior to the effective date of cancellation. Within thirty days of receipt of the notice, the city or county governing body or officer may submit to the director of the family support division **[**of child support enforcement**]** objections to the findings of the director, or a proposed plan to bring the city, county or officer into compliance with the cooperative agreement or rules established under this subsection. The director shall respond to the objections or proposed plan prior to the effective date of cancellation.

5. At any time after the director determines not to enter into a cooperative agreement under subsection 2 of this section or cancels a cooperative agreement under subsection 4 of this section, the city or county governing body or officer may request that a new cooperative agreement be negotiated. At the time of the request, the city or county governing body or officer shall submit a proposed plan for compliance with a cooperative agreement or with rules established under this section. After the request and submission of the proposed plan, the director may enter into a cooperative agreement with the city or county governing body or officer. The cooperative agreement shall contain the provisions set out in subsection 3 of this section.

6. The limitations set out in chapter 56 regarding the

salaries and the number of assistant prosecuting attorneys and the stenographic or administrative personnel shall not apply, and the county or city governing body shall appropriate sufficient funds to compensate such additional staff or multiple county unit for implementing the provisions of the child support enforcement program.

7. With the approval of the city or county governing body and the director of the family support division **[**of child support enforcement**]**, and for the purpose of investigating the child support cases, the prosecuting attorney, circuit attorney or multiple county unit may employ sufficient investigators to properly administer the provisions of the child support enforcement program.

454.408. The family support division **[**of child support enforcement**]**:

(1) Shall determine whether a person who has applied for or is receiving assistance from a program funded pursuant to Part A or Part E of Title IV of the Social Security Act, Title XIX of the Social Security Act or the Food Stamp Act is cooperating in good faith with the division in establishing the paternity of, or in establishing, modifying or enforcing a support order for any child of such person by providing the division with the name of the noncustodial parent or any other information the division may require. The division may, by regulation, excuse compliance with the provisions of this subsection on a case-by-case basis for good cause or other exceptions as the division may deem to be in the best interest of the child;

(2) Shall require as a condition of cooperation that such

person supply additional information deemed necessary by the division and appear at any interviews, hearings or legal proceedings;

(3) Shall require as a condition of cooperation that such person and such person's child submit to genetic testing pursuant to a judicial or administrative order;

(4) May request that such person sign a voluntary acknowledgment of paternity, after notice of the rights and consequences of such an acknowledgment, but may not require such person to sign an acknowledgment or otherwise relinquish the right to a genetic test as a condition of cooperation and eligibility for assistance from a state program funded pursuant to Part A or Part E of Title IV of the Social Security Act, Title XIX of the Social Security Act or the Food Stamp Act; and

(5) Shall promptly notify such person, the appropriate division or unit of the family support division **[**of family services**]** or the MO HealthNet division **[**of medical services**]** of every determination made pursuant to this section, including a determination that such person is not cooperative and the basis for such determination.

454.415. 1. For the purposes of this section, the term "IV-A agency" shall mean:

(1) An agency that has been designated by a state to administer programs pursuant to Title IV-A of the Social Security Act;

(2) An agency that has been designated by a state to administer programs pursuant to Title IV-D of the Social Security Act; or

(3) Any other entity entitled to receive and disburse child support payments in that state.

2. When a court has ordered support payments to a person who has made an assignment of support rights to the family support division **[**of family services**]** or the IV-A agency of another state on behalf of this or such other state, the family support division **[**of child support enforcement**]** shall notify the court.

(1) Until October 1, 1999, upon such notice, the court shall order all support payments to be made to the clerk of the court as trustee for the division of family services or the other state's IV-A agency, whichever is appropriate, as assignee of the support rights. The clerk shall forward all support payments to the department of social services, which payments have been identified by the department for deposit in the appropriate fund within the state treasury when assignments have been made to the division of family services. The clerk shall forward support payments to the other state's IV-D agency when assignments have been made to that state's IV-A agency. Notification to the court by the division of child support enforcement of the assignment of support rights shall, in and of itself, authorize the court to make the clerk trustee, notwithstanding any provision of any existing court order, statute, or other law to the contrary, and the court need not hold a hearing on the matter. The amount of the obligation owed to this state or the other state's IV-A agency shall be the amount specified in a court order which covers the assigned rights. The clerk shall keep an accurate record of such orders and such payments and shall note such

assignment in the case file in such a manner as to make the fact of the assignment easily discernible.

(2) Effective October 1, 1999, support payments are to be made to the payment center pursuant to section 454.530 as trustee for the family support division **[**of family services**]** or other state's IV-A agency, whichever is appropriate, as assignee of the support rights. The payment center shall forward all support payments to the state, which payments have been identified by the family support division **[**of child support enforcement**]** for deposit in the appropriate fund within the state treasury when assignments have been made to the family support division **[**of family services**]**. The payment center shall forward support payments to the other state's IV-D agency when assignments have been made to that state's IV-A agency. Notification to the court by the family support division **[**of child support enforcement**]** of the assignment of support rights shall, in and of itself, make the payment center trustee, notwithstanding any provision of any existing court order or state law to the contrary, and the court shall not be required to hold a hearing on the matter. The amount of the obligation owed to this state or the other state's IV-A agency shall be the amount specified in a court order which covers the assigned rights. The payment center shall keep an accurate record of such orders and payments.

3. (1) Upon termination of the assignment for any case in which payments are not to be made to the payment center pursuant to section 454.530, the clerk of the court shall continue as trustee for the family support division **[**of family services**]** or the other state's IV-A agency for any accrued unpaid support at

the time of the termination and as trustee for the obligee for any support becoming due after the termination. If there has been an assignment to the family support division [of family services] and there is no current assignment to another state's IV-A agency, the clerk of the court shall forward to the obligee all payments for support accruing subsequent to the termination and shall forward to the department of social services all payments for support which had accrued and were unpaid at the time of the termination. If there has been an assignment to another state's IV-A agency and there is no current assignment to the family support division [of family services], the clerk of the court shall continue to forward to that state's IV-D agency all payments for support accruing subsequent to the termination of the assignment as well as all payments for support which had accrued and were unpaid at the time of the termination. When there has been an assignment to the family support division [of family services], the clerk of the court shall apply payments first to support which has accrued subsequent to the termination, to the extent thereof, and then to support which accrued prior to termination, except such payments collected by the family support division [of child support enforcement] through debt setoff or legal process shall be forwarded to the department of social services, unless the department of social services directs otherwise. After termination of the assignment, the trusteeship may be dissolved upon motion of a party after notice and hearing on behalf of all parties to the proceeding or pursuant to subsections 3 to 7 of section 454.430. Prior to termination of the assignment, no motion may be filed, nor maintained, for the

purpose of terminating or abating any trusteeship in favor of the family support division [of family services] or another state's IV-A agency.

(2) Effective October 1, 1999, upon termination of the assignment for any case in which payments are to be made to the payment center pursuant to section 454.530, the payment center shall continue as trustee for the family support division [of family services] or the other state's IV-A agency for any accrued unpaid support at the time of the termination and as trustee for the obligee for any support coming due after the termination. If there has been an assignment to the family support division [of family services] and there is no current assignment to another state's IV-A agency, the payment center shall forward to the obligee all payments for support which accrue after the termination and shall forward to the family support division [of child support enforcement] all payments for support which had accrued and were unpaid at the time of termination. If there has been an assignment to another state's IV-A agency and there is no current assignment to the family support division [of family services], the payment center shall continue to forward to that state's IV-D agency all payments for support which accrue after the termination of the assignment as well as all payments for support which had accrued and were unpaid at the time of termination. If there has been an assignment to the family support division [of family services], the payment center shall apply payments first to support which accrues after the termination, to the extent thereof, and then to support which accrued prior to termination; except that such payments collected

by the family support division [of child support enforcement] through debt setoff or legal process shall be forwarded to the family support division [of child support enforcement], unless the division directs otherwise. After termination of the assignment, the trusteeship may be dissolved upon motion of a party after notice and hearing on behalf of all parties to the proceeding or pursuant to subsections 3 to 7 of section 454.430. Prior to termination of the assignment, no motion shall be filed or maintained for the purpose of terminating or abating any trusteeship in favor of the family support division [of family services] or another state's IV-A agency.

4. For purposes of this section, "assignment" includes an assignment to the state by a person who has applied or is receiving assistance under a program funded pursuant to Part A of Title IV or Title XIX of the Social Security Act.

454.420. Any legal action necessary to establish or enforce support obligations owed to the state shall be brought by prosecuting attorneys, or other attorneys under cooperative agreement with the family support division [of child support enforcement], upon being furnished notice by the division of such obligation. If the amount of the support obligation owed to the state has not been determined because no court order exists, the family support division [of child support enforcement] may refer the case to the appropriate prosecuting attorney, or other attorney under cooperative agreement with the division, for establishment and enforcement of a support order or order for reimbursement. When a recipient is no longer eligible for aid to families with dependent children benefits, the assignment shall

terminate, unless the recipient and the family support division [of child support enforcement] agree otherwise, except for those unpaid support obligations still owing to the state under the assignment at the time of the discontinuance of aid. Upon referral from the family support division [of child support enforcement], such unpaid obligations shall be collected by the prosecuting attorney, or other attorney under cooperative agreement with the division, up to the amount of unreimbursed aid paid by the family support division [of family services] prior to or after execution of the assignment of support rights. Moneys collected pursuant to this section shall be paid to the department of social services for deposit in the child support enforcement fund in the state treasury.

454.425. The family support division [of child support enforcement] shall render child support services authorized pursuant to this chapter to persons who are not recipients of public assistance as well as to such recipients. Services may be provided to children, custodial parents, noncustodial parents and other persons entitled to receive support. An application may be required by the division for services and fees may be charged by the division pursuant to 42 U.S.C. Section 654 and federal regulations. Services provided under a state plan shall be made available to residents of other states on the same terms as residents of this state. If a family receiving services ceases to receive assistance under a state program funded under Part A of Title IV of the Social Security Act, the division shall provide appropriate notice to such family, and services shall continue under the same terms and conditions as that provided to

other individuals under the state plan, except that an application for continued services shall not be required and the requirement for payment of fees shall not apply to the family.

454.430. 1. For the purposes of this section, the term "IV-D agency" means an agency that has been designated by a state to administer programs pursuant to Title IV-D of the Social Security Act or any other entity entitled to receive and disburse child support payments in that state.

2. When a court has ordered support payments to a person who is receiving child support services pursuant to section 454.425, or pursuant to application for IV-D agency services in another state, the family support division **[**of child support enforcement**]** shall so notify the court. Until October 1, 1999, upon such notice the court shall order all support payments to be made to the clerk of the court as trustee for such person. The notification to the court by the division shall, in and of itself, authorize the court to make the clerk trustee, notwithstanding any provision of any existing court order, statute, or other law to the contrary, and the court need not hold a hearing on the matter. The clerk shall keep an accurate record of such orders and such payments, and shall report all such collections to the division in the manner specified by the division. The circuit clerk shall forward all such payments to the person receiving child support services pursuant to section 454.425, or to the IV-D agency in the state in which the person is currently receiving IV-D services, as appropriate. Effective October 1, 1999, upon notice by the division, all support payments shall be made to the payment center pursuant to section

454.530 as trustee for such person. The notification by the division shall, in and of itself, authorize the payment center pursuant to section 454.530 to be trustee, notwithstanding any provision of any existing court order or state law to the contrary, and the court shall not be required to hold a hearing on the matter. The payment center shall keep an accurate record of such orders and payments, and shall report all such collections to the division in a manner specified by the division. The payment center shall forward all such payments to the person receiving child support services pursuant to section 454.425 or to the IV-D agency in the state in which the person is currently receiving IV-D services, as appropriate.

3. The division is authorized to terminate trusteeship responsibilities for future support in IV-D cases pursuant to the procedures set forth in this section. If the division determines that the order no longer provides a continuing obligation for support or the custodial party is no longer receiving child support enforcement services, the division shall send a notice of its intent to terminate the trusteeship by regular mail to the custodial and noncustodial parties. The notice shall advise each party that unless written objection is received by the division within fifteen days of the date the notice is sent, the trusteeship for current support shall be terminated. Unless a party objects to the termination of the trusteeship in writing within the specified period, the division shall terminate the trusteeship for current support.

4. If an objection is filed by either party to the case, the trusteeship may be terminated for future support only upon

the filing of a motion with the court in which the trusteeship is established and after notice to all parties and hearing on the motion.

5. If the requirements of subsection 3 of this section have been met, the trusteeship responsibilities for future support shall terminate. The trusteeship shall remain in effect only to the extent that payments are made to satisfy any accrued unpaid support that was due as of the date of the notice. The notice shall, in and of itself, terminate the trusteeship responsibilities for future support, and the court need not hold a hearing on the matter.

6. Any party whose trusteeship is terminated pursuant to this section may reopen a trusteeship pursuant to section 452.345.

7. Termination of a trusteeship pursuant to this section shall not, in and of itself, constitute a judicial determination as to the rights of a party to receive support or the obligation of a party to pay support pursuant to a support order entered in the case.

454.432. 1. The circuit clerk in a case that is not a IV-D case or the division in a IV-D case shall record credits on the automated child support system records established pursuant to this chapter or chapter 452 for amounts not received by the clerk or the division.

2. Credits allowed pursuant to this section shall include, but not be limited to, in-kind payments as provided in this section, amounts collected from an obligor from federal and state income tax refunds, state lottery payments, Social Security

payments, unemployment and workers' compensation benefits, income withholdings authorized by law, liens, garnishment actions, abatements pursuant to section 452.340, and any other amounts required to be credited by statute or case law.

3. Credits shall be recorded on the trusteeship record for payments received by the family support division [of child support enforcement] and, at the discretion of the family support division [of child support enforcement], and upon receipt of waivers requested pursuant to subsection 4 of this section, credits may be given on state debt judgments obtained pursuant to subsection 1 of section 454.465 for completion of such activities as job training and education, if mutually agreed upon by the division and the obligor. The circuit clerk shall make such credits upon receipt of paper or electronic notification of the amount of the credit from the division. The division may record the credit or adjust the records to reflect payments and disbursements shown on the trusteeship record when the trusteeship record is contained or maintained in the automated child support system established in this chapter.

4. The director of the department of social services shall apply to the United States Secretary of Health and Human Services for all waivers of requirements pursuant to federal law necessary to implement the provisions of subsection 3 of this section.

5. Credits shall be entered on the automated child support system for direct and in-kind payments received by the custodial parent when the custodial parent files an affidavit stating the particulars of the direct and in-kind payments to be credited on the court record with the circuit clerk; however, no such credits

shall be entered for periods during which child support payments are assigned to the state pursuant to law. Such credits may include, but shall not be limited to, partial and complete satisfaction of judgment for support arrearages.

6. Nothing contained in this section shall prohibit satisfaction of judgment as provided for in sections 511.570 to 511.620 and by supreme court rule.

7. Application for the federal earned income tax credit shall, when applicable, be required as a condition of participating in the alternative child support credit programs of subsection 3 of this section.

454.433. 1. When a tribunal of another state as defined in section 454.850 has ordered support payments to a person who has made an assignment of child support rights to the family support division **[**of family services**]** or who is receiving child support services pursuant to section 454.425, the family support division **[**of child support enforcement**]** may notify the court of this state in the county in which the obligor, obligee or the child resides or works. Until October 1, 1999, upon such notice the circuit clerk shall accept all support payments and remit such payments to the person or entity entitled to receive the payments. Effective October 1, 1999, the division shall order the payment center to accept all support payments and remit such payments to the person or entity entitled to receive the payments.

2. Notwithstanding any provision of law to the contrary, the notification to the court by the division shall authorize the court to make the clerk trustee. The clerk shall keep an accurate record of such payments and shall report all collections

to the division in the manner specified by the division. Effective October 1, 1999, the duties of the clerk as trustee pursuant to this section shall terminate and all payments shall be made to the payment center pursuant to section 454.530.

454.435. 1. Each prosecuting attorney may enter into a cooperative agreement or may enter into a multiple county agreement to litigate or prosecute any action necessary to secure support for any person referred to such office by the family support division **[**of child support enforcement**]** including, but not limited to, reciprocal actions under this chapter, actions to establish, modify and enforce support obligations, actions to enforce medical support obligations ordered in conjunction with a child support obligation, actions to obtain reimbursement for the cost of medical care provided by the state for which an obligor is liable under subsection 9 of section 208.215, and actions to establish the paternity of a child for whom support is sought. In all cases where a prosecuting attorney seeks the establishment or modification of a support obligation, the prosecuting attorney shall, in addition to periodic monetary support, seek and enforce orders from the court directing the obligated parent to maintain medical insurance on behalf of the child for whom support is sought, which insurance shall, in the opinion of the court, be sufficient to provide adequate medical coverage; or to otherwise provide for such child's necessary medical expenses.

2. In all cases where a prosecuting attorney has entered into a cooperative agreement to litigate or prosecute an action necessary to secure child support, and an information is not filed or civil action commenced within sixty days of the receipt

of the referral from the division, the division may demand return of the referral and the case filed and the prosecuting attorney shall return the referral and the case file. The division may then use any other attorney which it employs or with whom it has a cooperative agreement to establish or enforce the support obligation.

3. As used in this section, the term "prosecuting attorney" means, with reference to any city not within a county, the circuit attorney.

4. Prosecuting attorneys are hereby authorized to initiate judicial or administrative modification proceedings on IV-D cases at the request of the division.

454.440. 1. As used in this section, unless the context clearly indicates otherwise, the following terms mean:

(1) "Business" includes any corporation, partnership, association, individual, and labor or other organization including, but not limited to, a public utility or cable company;

(2) "Division", the Missouri family support division **[**of child support enforcement**]** of the department of social services;

(3) "Financial entity" includes any bank, trust company, savings and loan association, credit union, insurance company, or any corporation, association, partnership, or individual receiving or accepting money or its equivalent on deposit as a business;

(4) "Government agency", any department, board, bureau or other agency of this state or any political subdivision of the state;

(5) "Information" includes, but is not necessarily limited

to, the following items:

(a) Full name of the parent;

(b) Social Security number of the parent;

(c) Date of birth of the parent;

(d) Last known mailing and residential address of the parent;

(e) Amount of wages, salaries, earnings or commissions earned by or paid to the parent;

(f) Number of dependents declared by the parent on state and federal tax information and reporting forms;

(g) Name of company, policy numbers and dependent coverage for any medical insurance carried by or on behalf of the parent;

(h) Name of company, policy numbers and cash values, if any, for any life insurance policies or annuity contracts, carried by or on behalf of, or owned by, the parent;

(i) Any retirement benefits, pension plans or stock purchase plans maintained on behalf of, or owned by, the parent and the values thereof, employee contributions thereto, and the extent to which each benefit or plan is vested;

(j) Vital statistics, including records of marriage, birth or divorce;

(k) Tax and revenue records, including information on residence address, employer, income or assets;

(l) Records concerning real or personal property;

(m) Records of occupational, professional or recreational licenses or permits;

(n) Records concerning the ownership and control of corporations, partnerships or other businesses;

(o) Employment security records;

(p) Records concerning motor vehicles;

(q) Records of assets or liabilities;

(r) Corrections records;

(s) Names and addresses of employers of parents;

(t) Motor vehicle records; and

(u) Law enforcement records;

(6) "Parent", a biological or adoptive parent, including a presumed or putative father. The word parent shall also include any person who has been found to be such by:

(a) A court of competent jurisdiction in an action for dissolution of marriage, legal separation, or establishment of the parent and child relationship;

(b) The division under section 454.485;

(c) Operation of law under section 210.823; or

(d) A court or administrative tribunal of another state.

2. For the purpose of locating and determining financial resources of the parents relating to establishment of paternity or to establish, modify or enforce support orders, the division or other state IV-D agency may request and receive information from the federal Parent Locator Service, from available records in other states, territories and the District of Columbia, from the records of all government agencies, and from businesses and financial entities. A request for information from a public utility or cable television company shall be made by subpoena authorized pursuant to this chapter. The government agencies, businesses, and financial entities shall provide information, if known or chronicled in their business records, notwithstanding

any other provision of law making the information confidential. In addition, the division may use all sources of information and available records and, pursuant to agreement with the secretary of the United States Department of Health and Human Services, or the secretary's designee, request and receive from the federal Parent Locator Service information pursuant to 42 U.S.C. Sections 653 and 663, to determine the whereabouts of any parent or child when such information is to be used to locate the parent or child to enforce any state or federal law with respect to the unlawful taking or restraining of a child, or of making or enforcing a child custody or visitation order.

3. Notwithstanding the provisions of subsection 2 of this section, no financial entity shall be required to provide the information requested by the division or other state IV-D agency unless the division or other state IV-D agency alleges that the parent about whom the information is sought is an officer, agent, member, employee, depositor, customer or the insured of the financial institution, or unless the division or other state IV-D agency has complied with the provisions of section 660.330.

4. Any business or financial entity which has received a request from the division or other state IV-D agency as provided by subsections 2 and 3 of this section shall provide the requested information or a statement that any or all of the requested information is not known or available to the business or financial entity, within sixty days of receipt of the request and shall be liable to the state for civil penalties up to one hundred dollars for each day after such sixty-day period in which it fails to provide the information so requested. Upon request

of the division or other state IV-D agency, the attorney general shall bring an action in a circuit court of competent jurisdiction to recover the civil penalty. The court shall have the authority to determine the amount of the civil penalty to be assessed.

5. Any business or financial entity, or any officer, agent or employee of such entity, participating in good faith in providing information requested pursuant to subsections 2 and 3 of this section shall be immune from liability, civil or criminal, that might otherwise result from the release of such information to the division.

6. Upon request of the division or other state IV-D agency, any parent shall complete a statement under oath, upon such form as the division or other state IV-D agency may specify, providing information, including, but not necessarily limited to, the parent's monthly income, the parent's total income for the previous year, the number and name of the parent's dependents and the amount of support the parent provides to each, the nature and extent of the parent's assets, and such other information pertinent to the support of the dependent as the division or other state IV-D agency may request. Upon request of the division or other state IV-D agency, such statements shall be completed annually. Failure to comply with this subsection is a class A misdemeanor.

7. The disclosure of any information provided to the business or financial entity by the division or other state IV-D agency, or the disclosure of any information regarding the identity of any applicant for or recipient of public assistance,

by an officer or employee of any business or financial entity, or by any person receiving such information from such employee or officer is prohibited. Any person violating this subsection is guilty of a class A misdemeanor.

8. Any person who willfully requests, obtains or seeks to obtain information pursuant to this section under false pretenses, or who willfully communicates or seeks to communicate such information to any agency or person except pursuant to this chapter, is guilty of a class A misdemeanor.

9. For the protection of applicants and recipients of services pursuant to sections 454.400 to 454.645, all officers and employees of, and persons and entities under contract to, the state of Missouri are prohibited, except as otherwise provided in this subsection, from disclosing any information obtained by them in the discharge of their official duties relative to the identity of applicants for or recipients of services or relating to proceedings or actions to establish paternity or to establish or enforce support, or relating to the contents of any records, files, papers and communications, except in the administration of the child support program or the administration of public assistance, including civil or criminal proceedings or investigations conducted in connection with the administration of the child support program or the administration of public assistance. Such officers, employees, persons or entities are specifically prohibited from disclosing any information relating to the location of one party to another party:

(1) If a protective order has been entered against the other party; or

(2) If there is reason to believe that such disclosure of information may result in physical or emotional harm to the other party.

In any judicial proceedings, except such proceedings as are directly concerned with the administration of these programs, such information obtained in the discharge of official duties relative to the identity of applicants for or recipients of child support services or public assistance, and records, files, papers, communications and their contents shall be confidential and not admissible in evidence. Nothing in this subsection shall be construed to prohibit the circuit clerk from releasing information, not otherwise privileged, from court records for reasons other than the administration of the child support program, if such information does not identify any individual as an applicant for or recipient of services pursuant to sections 454.400 to 454.645. Anyone who purposely or knowingly violates this subsection is guilty of a class A misdemeanor.

454.445. No deposit or other filing fee, court fee, library fee, or fee for making copies of documents shall be required to be paid by the family support division **[**of child support enforcement**]**, or any attorney bringing action pursuant to a referral by the family support division **[**of child support enforcement**]**, by any circuit clerk or other county or state officer for the filing of any action or document necessary to establish paternity, or to establish, modify or enforce a child support obligation.

454.450. 1. Whenever a custodian of a child, or other

person, receives support moneys paid to him or her, which moneys are paid in whole or in part in satisfaction of a support obligation which is owed to the family support division [of family services pursuant to] under subsection 2 of section 454.465, or which has been assigned to the family support division [of family services pursuant to] under subsection 2 of section 208.040, the moneys shall be remitted to the department of social services within ten days of receipt by such custodian or other person. If not so remitted, such custodian or other person shall be indebted to the department in an amount equal to the amount of the support money received and not remitted. By not paying over the moneys to the department, such custodian or other person is deemed, without the necessity of signing any document, to have made an irrevocable assignment to the family support division [of family services] of any support delinquency owed which is not already assigned to the family support division [of family services] or to any support delinquency which may accrue in the future in an amount equal to the amount of the support money retained. The department may utilize any available administrative or legal process to collect the assigned delinquency to effect recoupment and satisfaction of the debt incurred by reason of the failure of such custodian or other person to remit. The department is also authorized to make a setoff to effect satisfaction of the debt by deduction from support moneys in its possession or in the possession of any clerk of the court or other forwarding agent which would otherwise be payable to such custodian or other person for the satisfaction of any support delinquency. Nothing in this section

authorizes the department to make a setoff as to current support paid during the month for which the payment is due and owing.

2. A custodian of a child, or other person, who has made an assignment of support rights to the family support division [of family services,] shall not make any agreement with any private attorney or other person regarding the collection of assigned support obligations without approval of the department of social services. If any private attorney or other person who in good faith and without knowledge of such assignment collects all or part of the assigned support obligations, any agreement regarding the distribution of the proceeds of the assigned support obligations by such private attorney or other person shall not bind the department; provided, however, the department shall be liable to such private attorney or other person for a fee computed in accordance with subsection 3 of this section. When a private attorney or other person has begun to collect a support obligation, and thereafter a notice of assignment of support rights to the division is filed with the court pursuant to section 454.415, notice of such assignment shall be given to that attorney or other person as provided by supreme court rule 43.01.

3. (1) Where an assignment of support rights has been made to the family support division [of family services] but notice of such assignment was not filed with the court pursuant to section 454.415, a private attorney who in good faith and without knowledge of such assignment collects all or part of such assigned support obligation shall be awarded by the department a fee of twenty-five percent of the support obligation collected. Such fees shall be paid out of state funds in lieu of federal

funds.

(2) Where an assignment of support rights has been made to the family support division [of family services] and notice of the assignment was not filed with the court pursuant to section 454.415 until after the private attorney has begun collection proceedings, a private attorney who collects assigned support obligations shall be awarded a fee, as the court shall determine, based upon the time expended, but in no event shall the fee exceed twenty-five percent of the support obligation collected.

(3) Where no assignment of support rights has been made to the family support division [of family services] until after the private attorney has collected any part of the support obligation, no recoupment shall be had by the department of the portion collected, and the fee awarded to the private attorney or other person shall be the fee negotiated between the client and the private attorney or other person.

4. A person commits the crime of stealing, as defined by section 570.030, if [he] such person takes, obtains, uses, transfers, conceals, or retains possession of child support payments which have been assigned to the family support division [of family services] with the purpose to deprive the division thereof, either without the consent of the division or by means of deceit or coercion.

454.455. 1. In any case wherein an order for child support has been entered and the legal custodian and obligee pursuant to the order relinquishes physical custody of the child to a caretaker relative without obtaining a modification of legal custody, and the caretaker relative makes an assignment of

support rights to the family support division [of family services] in order to receive aid to families with dependent children benefits, the relinquishment and the assignment, by operation of law, shall transfer the child support obligation pursuant to the order to the division in behalf of the state. The assignment shall terminate when the caretaker relative no longer has physical custody of the child, except for those unpaid support obligations still owing to the state pursuant to the assignment at that time.

2. As used in subsection 1 of this section, the term "caretaker relative" includes only those persons listed in subdivision (2) of subsection 1 of section 208.040.

3. If an order for child support has been entered, no assignment of support has been made, and the legal custodian and obligee under the order relinquishes physical custody of the child to a caretaker relative without obtaining a modification of legal custody, or the child is placed by the court in the legal custody of a state agency, the division may, thirty days after the transfer of custody and upon notice to the obligor and obligee, direct the obligor or other payer to change the payee to the caretaker relative or appropriate state agency. An order changing the payee to a caretaker relative shall terminate when the caretaker relative no longer has physical custody of the child, or the state agency is relieved of legal custody, except for the unpaid support obligations still owed to the caretaker relative or the state.

4. If there has been an assignment of support to an agency or division of the state or a requirement to pay through a state

disbursement unit, the division may, upon notice to the obligor and obligee, direct the obligor or other payer to change the payee to the appropriate state agency.

454.460. As used in sections 454.400 to 454.560, unless the context clearly indicates otherwise, the following terms mean:

(1) "Court", any circuit court of this state and any court or agency of any other state having jurisdiction to determine the liability of persons for the support of another person;

(2) "Court order", any judgment, decree, or order of any court which orders payment of a set or determinable amount of support money;

(3) "Department", the department of social services of the state of Missouri;

(4) "Dependent child", any person under the age of twenty-one who is not otherwise emancipated, self-supporting, married, or a member of the Armed Forces of the United States;

(5) "Director", the director of the family support division **[**of child support enforcement**]**, or the director's designee;

(6) "Division", the family support division **[**of child support enforcement**]** of the department of social services of the state of Missouri;

(7) "IV-D agency", an agency designated by a state to administer programs under Title IV-D of the Social Security Act;

(8) "IV-D case", a case in which services are being provided pursuant to section 454.400;

(9) "Obligee", any person, state, or political subdivision to whom or to which a duty of support is owed as determined by a court or administrative agency of competent jurisdiction;

(10) "Obligor", any person who owes a duty of support as determined by a court or administrative agency of competent jurisdiction;

(11) "Parent", a biological or adoptive parent, including a presumed or putative father. The word parent shall also include any person who has been found to be such by:

(a) A court of competent jurisdiction in an action for dissolution of marriage, legal separation, or establishment of the parent and child relationship;

(b) The division under section 454.485;

(c) Operation of law under section 210.823; or

(d) A court or administrative tribunal of another state;

(12) "Public assistance", any cash or benefit pursuant to Part IV-A, Part IV-B, Part IV-E, or Title XIX of the federal Social Security Act paid by the department to or for the benefit of any dependent child or any public assistance assigned to the state;

(13) "State", any state or political subdivision, territory or possession of the United States, District of Columbia, and the Commonwealth of Puerto Rico;

(14) "Support order", a judgment, decree or order, whether temporary, final or subject to modification, issued by a court or administrative agency of competent jurisdiction for the support and maintenance of a child, including a child who has attained the age of majority pursuant to the law of the issuing state, or of the parent with whom the child is living and providing monetary support, health care, child care, arrearages or reimbursement for such child, and which may include related costs

and fees, interest and penalties, income withholding, attorneys' fees and other relief.

454.465. 1. For purposes of sections 454.460 to 454.505, a payment of public assistance by the family support division **[**of family services**]** to or for the benefit of any dependent child, including any payment made for the benefit of the caretaker of the child, creates an obligation, to be called "state debt", which is due and owing to the department by the parent, or parents, absent from the home where the dependent child resided at the time the public assistance was paid. The amount of the state debt shall be determined as follows:

(1) Where there exists a court order directed to a parent which covers that parent's support obligation to a dependent during a period in which the family support division **[**of family services**]** provided public assistance to or for the benefit of that dependent, the state debt of that parent shall be an amount equal to the obligation ordered by the court, including arrearages and unpaid medical expenses, up to the full amount of public assistance paid; or

(2) Where no court order covers a parent's support obligation to a dependent during a period in which the family support division **[**of family services**]** provided public assistance to or for the benefit of that dependent, the state debt may be set or reset by the director in an amount not to exceed the amount of public assistance so provided by the family support division **[**of family services**]**.

2. No agreement between any obligee and any obligor regarding any duty of support, or responsibility therefor, or

purporting to settle past, present, or future support obligations either as settlement or prepayment shall act to reduce or terminate any rights of the division to recover from that obligor for public assistance provided.

3. The division shall have the right to make a motion to a court or administrative tribunal for modification of any court order creating a support obligation which has been assigned to the family support division [of family services] to the same extent as a party to that action.

4. The department, or any division thereof, as designated by the department director is hereby authorized to promulgate such rules pursuant to section 454.400 and chapter 536 as may be necessary to carry out the provisions of this chapter and the requirements of the federal Social Security Act, including, but not necessarily limited to, the opportunity for a hearing to contest an order of the division establishing or modifying support rules for narrowing issues and simplifying the methods of proof at hearings, and establishing procedures for notice and the manner of service to be employed in all proceedings and remedies instituted pursuant to sections 454.460 to 454.505.

5. Service pursuant to sections 454.460 to 454.505 may be made on the parent or other party in the manner prescribed for service of process in a civil action, by an authorized process server appointed by the director, or by certified mail, return receipt requested. The director may appoint any uninterested party, including, but not necessarily limited to, employees of the division, to serve such process. For the purposes of this subsection, a parent who refuses receipt of service by certified

mail is deemed to have been served.

6. Creation of or exemption from a state debt pursuant to this section shall not limit any rights which the department has or may obtain pursuant to common or statutory law, including, but not limited to, those obtained pursuant to an assignment of support rights obtained pursuant to section 208.040.

454.472. No garnishment, withholding, or other financial legal proceeding under chapter 454 to enforce a support order as defined in section 454.460 shall be levied or maintained by the family support division **[**of child support enforcement**]** against a party who alleges that no current or unpaid child support is due if, after review of the allegations and evidence, the division determines that no current or unpaid child support is due. The enforcement action may continue pending a review by the division, and the division may only levy an enforcement action if current or unpaid support should later become due and owing. The division shall advise a party to a support obligation being enforced by the division of the amount currently due under the support order and how that amount was calculated upon request.

454.478. In cases where an administrative order is entered pursuant to the provisions of section 454.470 or section 454.476, the director of the family support division **[**of child support enforcement**]** may, upon petition of the party obligated to pay support and upon good cause shown, order the recipient to furnish the party obligated to pay support with a regular summary of expenses paid by such parent on behalf of the child. The director shall prescribe the form and substance of the summary.

454.490. 1. A true copy of any order entered by the

director pursuant to sections 454.460 to 454.997, along with a true copy of the return of service, may be filed with the clerk of the circuit court in the county in which the judgment of dissolution or paternity has been entered, or if no such judgment was entered, in the county where either the parent or the dependent child resides or where the support order was filed. Upon filing, the clerk shall enter the order in the judgment docket. Upon docketing, the order shall have all the force, effect, and attributes of a docketed order or decree of the circuit court, including, but not limited to, lien effect and enforceability by supplementary proceedings, contempt of court, execution and garnishment. Any administrative order or decision of the family support division **[**of child support enforcement**]** filed in the office of the circuit clerk of the court shall not be required to be signed by an attorney, as provided by supreme court rule of civil procedures 55.03(a), or required to have any further pleading other than the director's order.

2. In addition to any other provision to enforce an order docketed pursuant to this section or any other support order of the court, the court may, upon petition by the division, require that an obligor who owes past due support to pay support in accordance with a plan approved by the court, or if the obligor is subject to such plan and is not incapacitated, the court may require the obligor to participate in work activities.

3. In addition to any other provision to enforce an order docketed pursuant to this section or any other support order of the court, division or other IV-D agency, the director may order that an obligor who owes past due support to pay support in

accordance with a plan approved by the director, or if the obligor is subject to such plan and is not incapacitated, the director may order the obligor to participate in work activities. The order of the director shall be filed with a court pursuant to subsection 1 of this section and shall be enforceable as an order of the court.

4. As used in this section, "work activities" include:

(1) Unsubsidized employment;

(2) Subsidized private sector employment;

(3) Subsidized public sector employment;

(4) Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available;

(5) On-the-job training;

(6) Job search and readiness assistance;

(7) Community services programs;

(8) Vocational educational training, not to exceed twelve months for any individual;

(9) Job skills training directly related to employment;

(10) Education directly related to employment for an individual who has not received a high school diploma or its equivalent;

(11) Satisfactory attendance at a secondary school or course of study leading to a certificate of general equivalence for an individual who has not completed secondary school or received such a certificate; or

(12) The provision of child care services to an individual who is participating in a community service program.

454.495. 1. Until October 1, 1999, when an administrative order has been docketed pursuant to section 454.490, the court shall order all support payments to be made to the circuit clerk as trustee for the division of family services or other person entitled to receive such payments pursuant to the order. The filing of such order by the director shall in and of itself authorize the court to make the circuit clerk the trustee, notwithstanding any existing court order, statute, or other law to the contrary, and the court need not hold a hearing on the matter. The circuit clerk shall:

(1) Forward all such payments to the department or other person entitled to receive such payments pursuant to the order;

(2) Keep an accurate record of the orders and the payments; and

(3) Report all such collections to the department in the manner specified by the department.

2. Effective October 1, 1999, and if an administrative order has been docketed pursuant to section 454.490, the payment center pursuant to section 454.530 shall be trustee for the family support division **[**of family services**]** or other person entitled to receive such payments pursuant to the order. The order by the director shall, in and of itself, authorize the payment center to be the trustee, notwithstanding any existing court order or state law to the contrary, and the court shall not be required to hold a hearing on the matter. The payment center shall:

(1) Forward all such payments to the department or other person entitled to receive such payments pursuant to the order;

(2) Keep an accurate record of the orders and payments; and

(3) Report all such collections to the division in the manner specified by the division.

3. As used in this section, "assignment" includes an assignment to the state by a person who has applied for or is receiving assistance under a program funded pursuant to Part A of Title IV or Title XIX of the Social Security Act.

454.496. 1. At any time after the entry of a court order for child support in a case in which support rights have been assigned to the state pursuant to section 208.040, or a case in which support enforcement services are being provided pursuant to section 454.425, the obligated parent, the obligee or the family support division **[**of child support enforcement**]** may file a motion to modify the existing child support order pursuant to this section, if a review has first been completed by the director of **[**child support enforcement pursuant to**]** the family support division under subdivision (13) of subsection 2 of section 454.400. The motion shall be in writing in a form prescribed by the director, shall set out the reasons for modification and shall state the telephone number and address of the moving party. The motion shall be served in the same manner provided for in subsection 5 of section 454.465 upon the obligated parent, the obligee and the division, as appropriate. In addition, if the support rights are held by the family support division **[**of family services**]** on behalf of the state, the moving party shall mail a true copy of the motion by certified mail to the person having custody of the dependent child at the last known address of that person. The party against whom the motion is made shall have

thirty days either to resolve the matter by stipulated agreement or to serve the moving party and the director, as appropriate, by regular mail with a written response setting forth any objections to the motion and a request for hearing. When requested, the hearing shall be conducted pursuant to section 454.475 by hearing officers designated by the department of social services. In such proceedings, the hearing officers shall have the authority granted to the director pursuant to subsection 6 of section 454.465.

2. When no objections and request for hearing have been served within thirty days, the director, upon proof of service, shall enter an order granting the relief sought. Copies of the order shall be mailed to the parties within fourteen days of issuance.

3. A motion to modify made pursuant to this section shall not stay the director from enforcing and collecting upon the existing order unless so ordered by the court in which the order is docketed.

4. The only support payments which may be modified are payments accruing subsequent to the service of the motion upon all parties to the motion.

5. The party requesting modification shall have the burden of proving that a modification is appropriate pursuant to the provisions of section 452.370.

6. Notwithstanding the provisions of section 454.490 to the contrary, an administrative order modifying a court order is not effective until the administrative order is filed with and approved by the court that entered the court order. The court

may approve the administrative order if no party affected by the decision has filed a petition for judicial review pursuant to sections 536.100 to 536.140. After the thirty-day time period for filing a petition of judicial review pursuant to chapter 536 has passed, the court shall render its decision within fifteen days. If the court finds the administrative order should be approved, the court shall make a written finding on the record that the order complies with section 452.340 and applicable supreme court rules and approve the order. If the court finds that the administrative order should not be approved, the court shall set the matter for trial de novo.

7. If a petition for judicial review is filed, the court shall review all pleadings and the administrative record, as defined in section 536.130, pursuant to section 536.140. After such review, the court shall determine if the administrative order complies with section 452.340 and applicable supreme court rules. If it so determines, the court shall make a written finding on the record that the order complies with section 452.340 and applicable supreme court rules and approve the order or, if after review pursuant to section 536.140 the court finds that the administrative order does not comply with supreme court rule 88.01, the court may select any of the remedies set forth in subsection 5 of section 536.140. The court shall notify the parties and the division of any setting pursuant to this section.

8. Notwithstanding the venue provisions of chapter 536 to the contrary, for the filing of petitions for judicial review of final agency decisions and contested cases, the venue for the filing of a petition for judicial review contesting an

administrative order entered pursuant to this section modifying a judicial order shall be in the court which entered the judicial order. In such cases in which a petition for judicial review has been filed, the court shall consider the matters raised in the petition and determine if the administrative order complies with section 452.340 and applicable supreme court rules. If the court finds that the administrative order should not be approved, the court shall set the matter for trial de novo. The court shall notify the parties and the division of the setting of such proceeding. If the court determines that the matters raised in the petition are without merit and that the administrative order complies with the provisions of section 452.340 and applicable supreme court rules, the court shall approve the order.

454.500. 1. At any time after the entry of an order pursuant to sections 454.470 and 454.475, the obligated parent, the division, or the person or agency having custody of the dependent child may file a motion for modification with the director. Such motion shall be in writing, shall set forth the reasons for modification, and shall state the address of the moving party. The motion shall be served by the moving party in the manner provided for in subsection 5 of section 454.465 upon the obligated parent or the party holding the support rights, as appropriate. In addition, if the support rights are held by the <u>family support</u> division **[**of family services**]** on behalf of the state, a true copy of the motion shall be mailed by the moving party by certified mail to the person having custody of the dependent child at the last known address of that person. A hearing on the motion shall then be provided in the same manner,

and determinations shall be based on considerations set out in section 454.475, unless the party served fails to respond within thirty days, in which case the director may enter an order by default. If the child for whom the order applies is no longer in the custody of a person receiving public assistance or receiving support enforcement services from the department, or a division thereof, pursuant to section 454.425, the director may certify the matter for hearing to the circuit court in which the order was filed pursuant to section 454.490 in lieu of holding a hearing pursuant to section 454.475. If the director certifies the matter for hearing to the circuit court, service of the motion to modify shall be had in accordance with the provisions of subsection 5 of section 452.370. If the director does not certify the matter for hearing to the circuit court, service of the motion to modify shall be considered complete upon personal service, or on the date of mailing, if sent by certified mail. For the purpose of 42 U.S.C. 666(a)(9)(C), the director shall be considered the appropriate agent to receive the notice of the motion to modify for the obligee or the obligor, but only in those instances in which the matter is not certified to circuit court for hearing, and only when service of the motion is attempted on the obligee or obligor by certified mail.

2. A motion for modification made pursuant to this section shall not stay the director from enforcing and collecting upon the existing order pending the modification proceeding unless so ordered by the court.

3. Only payments accruing subsequent to the service of the motion for modification upon all named parties to the motion may

be modified. Modification may be granted only upon a showing of a change of circumstances so substantial and continuing as to make the terms unreasonable. In a proceeding for modification of any child support award, the director, in determining whether or not a substantial change in circumstances has occurred, shall consider all financial resources of both parties, including the extent to which the reasonable expenses of either party are, or should be, shared by a spouse or other person with whom he or she cohabits, and the earning capacity of a party who is not employed. If the application of the guidelines and criteria set forth in supreme court rule 88.01 to the financial circumstances of the parties would result in a change of child support from the existing amount by twenty percent or more, then a prima facie showing has been made of a change of circumstances so substantial and continuing as to make the present terms unreasonable.

4. The circuit court may, upon such terms as may be just, relieve a parent from an administrative order entered against that parent because of mistake, inadvertence, surprise, or excusable neglect.

5. No order entered pursuant to section 454.476 shall be modifiable pursuant to this section, except that an order entered pursuant to section 454.476 shall be amended by the director to conform with any modification made by the court that entered the court order upon which the director based his or her order.

6. When the party seeking modifications has met the burden of proof set forth in subsection 3 of this section, then the child support shall be determined in conformity with the criteria set forth in supreme court rule 88.01.

7. The last four digits of the Social Security number of the parents shall be recorded on any order entered pursuant to this section. The full Social Security number of each party and each child shall be retained in the manner required by section 509.520.

454.505. 1. In addition to any other remedy provided by law for the enforcement of support, if a support order has been entered, the director shall issue an order directing any employer or other payer of the parent to withhold and pay over to the division, the payment center pursuant to section 454.530 or the clerk of the circuit court in the county in which a trusteeship is or will be established, money due or to become due the obligated parent in an amount not to exceed federal wage garnishment limitations. For administrative child support orders issued pursuant to sections other than section 454.476, the director shall not issue an order to withhold and pay over in any case in which:

(1) One of the parties demonstrates, and the director finds, that there is good cause not to require immediate income withholding. For purposes of this subdivision, any finding that there is good cause not to require immediate withholding shall be based on, at least, a written determination and an explanation by the director that implementing immediate wage withholding would not be in the best interests of the child and proof of timely payments of previously ordered support in cases involving the modification of support orders; or

(2) A written agreement is reached between the parties that provides for an alternative payment arrangement.

If the income of an obligor is not withheld as of the effective date of the support order, pursuant to subdivision (1) or (2) of this subsection, or otherwise, such obligor's income shall become subject to withholding pursuant to this section, without further exception, on the date on which the obligor becomes delinquent in maintenance or child support payments in an amount equal to one month's total support obligation.

2. An order entered pursuant to this section shall recite the amount required to be paid as continuing support, the amount to be paid monthly for arrearages and the Social Security number of the obligor if available. In addition, the order shall contain a provision that the obligor shall notify the family support division **[**of child support enforcement**]** regarding the availability of medical insurance coverage through an employer or a group plan, provide the name of the insurance provider when coverage is available, and inform the division of any change in access to such insurance coverage. A copy of section 454.460 and this section shall be appended to the order.

3. An order entered pursuant to this section shall be served on the employer or other payer either by regular mail or by certified mail, return receipt requested or may be issued through electronic means, and shall be binding on the employer or other payer two weeks after mailing or electronic issuance of such service. A copy of the order and a notice of property exempt from withholding shall be mailed to the obligor at the obligor's last known address. The notice shall advise the obligor that the withholding has commenced and the procedures to contest such withholding pursuant to section 454.475 on the

grounds that such withholding or the amount withheld is improper due to a mistake of fact by requesting a hearing thirty days from mailing the notice. At such a hearing the certified copy of the court order and the sworn or certified statement of arrearages shall constitute prima facie evidence that the director's order is valid and enforceable. If a prima facie case is established, the obligor may only assert mistake of fact as a defense. For purposes of this section, "mistake of fact" means an error in the amount of the withholding or an error as to the identity of the obligor. The obligor shall have the burden of proof on such issues. The obligor may not obtain relief from the withholding by paying the overdue support. The employer or other payer shall withhold from the earnings or other income of each obligor the amount specified in the order, and may deduct an additional sum not to exceed six dollars per month as reimbursement for costs, except that the total amount withheld shall not exceed the limitations contained in the federal Consumer Credit Protection Act, 15 U.S.C. 1673(b). The employer or other payer shall transmit the payments as directed in the order within seven business days of the date the earnings, money due or other income was payable to the obligor. For purposes of this section, "business day" means a day that state offices are open for regular business. The employer or other payer shall, along with the amounts transmitted, provide the date the amount was withheld from each obligor. If the order does not contain the Social Security number of the obligor, the employer or other payer shall not be liable for withholding from the incorrect obligor.

4. If the order is served on a payer other than an

employer, it shall be a lien against any money due or to become due the obligated parent which is in the possession of the payer on the date of service or which may come into the possession of the payer after service until further order of the director, except for any deposits held in two or more names in a financial institution.

5. The division shall notify an employer or other payer upon whom such an order has been directed whenever all arrearages have been paid in full, and whenever, for any other reason, the amount required to be withheld and paid over to the payment center pursuant to the order as to future pay periods is to be reduced or redirected. If the parent's support obligation is required to be paid monthly and the parent's pay periods are at more frequent intervals, the employer or other payer may, at the request of the obligee or the director, withhold and pay over to the payment center an equal amount at each pay period cumulatively sufficient to comply with the withholding order.

6. An order issued pursuant to subsection 1 of this section shall be a continuing order and shall remain in effect and be binding upon any employer or other payer upon whom it is directed until a further order of the director. Such orders shall terminate when all children for whom the support order applies are emancipated or deceased, or the support obligation otherwise ends, and all arrearages are paid. No order to withhold shall be terminated solely because the obligor has fully paid arrearages.

7. An order issued pursuant to subsection 1 of this section shall have priority over any other legal process pursuant to state law against the same wages, except that where the other

legal process is an order issued pursuant to this section or section 452.350, the processes shall run concurrently, up to applicable wage withholding limitations. If concurrently running wage withholding processes for the collection of support obligations would cause the amounts withheld from the wages of the obligor to exceed applicable wage withholding limitations and includes a wage withholding from another state pursuant to section 454.932, the employer shall first satisfy current support obligations by dividing the amount available to be withheld among the orders on a pro rata basis using the percentages derived from the relationship each current support order amount has to the sum of all current child support obligations. Thereafter, arrearages shall be satisfied using the same pro rata distribution procedure used for distributing current support, up to the applicable limitation. If concurrently running wage withholding processes for the collection of support obligations would cause the amounts withheld from the wages of the obligor to exceed applicable wage withholding limitations and does not include a wage withholding from another state pursuant to section 454.932, the employer shall withhold and pay to the payment center an amount equal to the wage withholding limitations. The payment center shall first satisfy current support obligations by dividing the amount available to be withheld among the orders on a pro rata basis using the percentages derived from the relationship each current support order amount has to the sum of all current child support obligations. Thereafter, arrearages shall be satisfied using the same pro rata distribution procedure used for distributing current support, up to the applicable limitation.

8. No employer or other payer who complies with an order entered pursuant to this section shall be liable to the parent, or to any other person claiming rights derived from the parent, for wrongful withholding. An employer or other payer who fails or refuses to withhold or pay the amounts as ordered pursuant to this section shall be liable to the party holding the support rights in an amount equal to the amount which became due the parent during the relevant period and which, pursuant to the order, should have been withheld and paid over. The director is hereby authorized to bring an action in circuit court to determine the liability of an employer or other payer for failure to withhold or pay the amounts as ordered. If a court finds that a violation has occurred, the court may fine the employer in an amount not to exceed five hundred dollars. The court may also enter a judgment against the employer for the amounts to be withheld or paid, court costs and reasonable attorney's fees.

9. The remedy provided by this section shall be available where the state or any of its political subdivisions is the employer or other payer of the obligated parent in the same manner and to the same extent as where the employer or other payer is a private party.

10. An employer shall not discharge, or refuse to hire or otherwise discipline, an employee as a result of an order to withhold and pay over certain money authorized by this section. If any such employee is discharged within thirty days of the date upon which an order to withhold and pay over certain money is to take effect, there shall arise a rebuttable presumption that such discharge was a result of such order. This presumption shall be

overcome only by clear, cogent and convincing evidence produced by the employer that the employee was not terminated because of the order to withhold and pay over certain money. The director is hereby authorized to bring an action in circuit court to determine whether the discharge constitutes a violation of this subsection. If the court finds that a violation has occurred, the court may enter an order against the employer requiring reinstatement of the employee and may fine the employer in an amount not to exceed one hundred fifty dollars. Further, the court may enter judgment against the employer for the back wages, costs, attorney's fees, and for the amount of child support which should have been withheld and paid over during the period of time the employee was wrongfully discharged.

11. If an obligor for whom an order to withhold has been issued pursuant to subsection 1 of this section terminates the obligor's employment, the employer shall, within ten days of the termination, notify the division of the termination, shall provide to the division the last known address of the obligor, if known to the employer, and shall provide to the division the name and address of the obligor's new employer, if known. When the division determines the identity of the obligor's new employer, the director shall issue an order to the new employer as provided in subsection 1 of this section.

12. If an employer or other payer is withholding amounts for more than one order issued pursuant to subsection 1 of this section, the employer or other payer may transmit all such withholdings which are to be remitted to the same circuit clerk, other collection unit or to the payment center after October 1,

1999, as one payment together with a separate list identifying obligors for whom a withholding has been made and the amount withheld from each obligor so listed, and the withholding date or dates for each obligor.

13. For purposes of this section, "income" means any periodic form of payment due to an individual, regardless of source, including wages, salaries, commissions, bonuses, workers' compensation benefits, disability benefits, payments pursuant to a pension or a retirement program, and interest.

14. The employer shall withhold funds as directed in the notice, except if an employer receives an income withholding order issued by another state, the employer shall apply the income withholding law of the state of the obligor's principal place of employment in determining:

(1) The employer's fee for processing an income withholding order;

(2) The maximum amount permitted to be withheld from the obligor's income;

(3) The time periods within which the employer shall implement the income withholding order and forward the child support payments;

(4) The priorities for withholding and allocating income withheld for multiple child support obligees; and

(5) Any withholding terms and conditions not specified in the order.

15. If the secretary of the Department of Health and Human Services promulgates a final standard format for an employer income withholding notice, the director shall use such notice

prescribed by the secretary.

454.513. 1. Any attorney initiating any legal proceedings at the request of the Missouri family support division [of child support enforcement] shall represent the state of Missouri, department of social services, family support division [of child support enforcement] exclusively. An attorney/client relationship shall not exist between the attorney and any applicant or recipient of child support enforcement services for and on behalf of a child or children, without regard to the name in which legal proceedings are initiated. The provisions of this section shall apply to a prosecuting attorney, circuit attorney, attorney employed by the state or attorney under contract with the family support division [of child support enforcement].

2. An attorney representing the division in a proceeding in which a child support obligation may be established or modified shall, whenever possible, notify an applicant or recipient of child support enforcement services of such proceedings if such applicant or recipient is a party to such a proceeding but is not represented by an attorney.

454.530. 1. On or before October 1, 1999, the family support division [of child support enforcement] shall establish and operate a state disbursement unit to be known as the "Family Support Payment Center" for the receipt and disbursement of payments pursuant to support orders for:

(1) All cases enforced by the division pursuant to section 454.400; and

(2) Any case required by federal law to be collected or disbursed by the payment center including, but not limited to,

cases in which a support order is initially issued on or after January 1, 1994, in which the income of the obligor is subject to withholding; and

(3) Beginning July 1, 2001:

(a) Any other case with a support order in which payments are ordered or directed by a court or the division to be made to the payment center or in which the income of the obligor is subject to withholding; and

(b) Any case prior to July 1, 2001, in which support payments are ordered paid to the clerk of the court as trustee pursuant to section 452.345.

2. The family support payment center shall be operated by the division, in conjunction with other state agencies pursuant to a cooperative agreement, or by a contractor responsible directly to the division. Notwithstanding any other provision of law to the contrary, after notice by the division or the court that issued the support order to the obligor that all future payments shall be made to the payment center, the payment center shall become trustee for payments made by parents, employers, states and other entities, and all future payments shall be made to the payment center. The payment center shall disburse payments to custodial parents and other obligees, the state or agencies of other states. If the payment center is operated by a contractor and the contractor receives and disburses the payments, the contractor shall have an annual audit conducted by an independent certified public accountant. The audit will determine whether funds received are disbursed or otherwise accounted for, and make recommendations as to the procedures and

changes that the contractor should take to protect the funds received from misappropriation and theft. A copy of the audit shall be delivered to the division, the office of administration and the office of the state courts administrator.

3. Except as otherwise provided in sections 454.530 to 454.560, the payment center shall disburse support payments within two business days after receipt from the employer or other source of periodic income, if sufficient information identifying the payee is provided. As used in sections 454.530 to 454.560, "business day" means a day state government offices are open for regular business. Disbursement of payments made toward arrearages may be delayed until the resolution of any timely appeal with respect to such arrearage or upon order of a court.

4. The family support payment center shall establish an electronic funds transfer system for the transfer of child support payments. Obligees who want electronic transfer of support payments to a designated account shall complete an application for direct deposit and submit it to the family support payment center. The family support payment center may issue an electronic access card for the purpose of disbursing support payments to any obligee not using automated deposit to a designated account. Any person or employer may, without penalty, choose to disburse payments to the payment center by check or draft instead of by electronic transfer.

454.531. 1. Whenever a parent or other person receives support moneys for a child paid to him or her by the family support division **[**of child support enforcement pursuant to**]** under the provisions of chapter 454, and the division subsequently

determines that such payment, through no fault of the division, was erroneously made, either in good faith, or due to fraud or receipt of inaccurate information from the recipient of such support, such parent or other person shall be indebted to the division in an amount equal to the amount of the support money received by the parent or other person for that child. The division may utilize any available administrative or legal process to collect the erroneously paid support to effect recoupment and satisfaction of the debt incurred by reason of the failure of such parent or other person to reimburse the division for such erroneously paid child support. The division is also authorized to make a setoff to effect satisfaction of the debt by deduction from support moneys for that child in its possession or in the possession of any clerk of the court or other forwarding agent which would otherwise be payable to such parent or other person for the satisfaction of any support reimbursement. Nothing in this section authorizes the division to make a setoff as to current support paid during the month for which the payment is due and owing.

2. A person commits the crime of stealing, as defined by section 570.030, if he or she knowingly retains possession of child support payments which have been erroneously paid by the division through no fault of the division and the division has requested reimbursement of such support paid, if the purpose is to deprive the division of such reimbursement, either without the consent of the division or by means of deceit or coercion.

454.565. Beginning in 2000, the <u>family support</u> division **[**of child support enforcement**]** shall report to the general assembly

regarding the family support payment center by December 1, 2000, and by each December first thereafter. Such report shall include recommendations and an analysis of the efficiency and effectiveness of the system.

454.600. As used in sections 454.600 to 454.645, the following terms mean:

(1) "Court", any circuit court establishing a support obligation pursuant to an action under this chapter, chapter 210, chapter 211 or chapter 452;

(2) "Director", the director of the family support division **[**of child support enforcement**]** of the department of social services;

(3) "Division", the family support division **[**of child support enforcement**]** of the department of social services;

(4) "Employer", any individual, organization, agency, business or corporation hiring an obligor for pay;

(5) "Health benefit plan", any benefit plan or combination of plans, other than public assistance programs, providing medical or dental care or benefits through insurance or otherwise, including but not limited to health service corporations, as defined in section 354.010; prepaid dental plans, as defined in section 354.700; health maintenance organization plans, as defined in section 354.400; and self-insurance plans, to the extent allowed by federal law;

(6) "Minor child", a child for whom a support obligation exists under law;

(7) "Obligee", a person to whom a duty of support is owed or a person, including any division of the department of social

services, who has commenced a proceeding for enforcement of an alleged duty of support or for registration of a support order, regardless of whether the person to whom a duty of support is owed is a recipient of public assistance;

(8) "Obligor", a person owing a duty of support or against whom a proceeding for the enforcement of a duty of support or registration of a support order is commenced; and

(9) "IV-D case", a case in which support rights have been assigned to the state of Missouri pursuant to section 208.040, or in which the family support division **[**of child support enforcement**]** is providing support enforcement services pursuant to section 454.425.

454.700. 1. In any case in which a parent is required by a court or administrative order to provide medical coverage for a child, under any health benefit plan, as defined in section 454.600, and a parent is eligible through employment, under the provisions of the federal Comprehensive Omnibus Budget Reconciliation Act (COBRA) or the provisions of section 376.892, or for health coverage through an insurer or group health plan, any insurers, including group health plans as defined in Section 607(1) of the federal Employee Retirement Income Security Act of 1974, offering, issuing, or renewing policies in this state on or after July 1, 1994, shall:

(1) Permit such parent to enroll under such coverage any such child who is otherwise eligible for such coverage, without regard to any enrollment season restrictions;

(2) Permit enrollment of a child under coverage upon application by the child's other parent, the family support

division [of child support enforcement], the MO HealthNet division [of medical services], or the tribunal of another state, if the parent required by a court or administrative order to provide health coverage fails to make application to obtain coverage for such child;

(3) Not disenroll or eliminate coverage of a child unless:

(a) The insurer is provided satisfactory written evidence that such court or administrative order is no longer in effect; or

(b) The insurer is provided satisfactory written evidence that the child is or will be enrolled in comparable health coverage through another insurer which will take effect no later than the effective date of the disenrollment; or

(c) The employer or union eliminates family health coverage for all of its employees or members; or

(d) Any available continuation coverage is not elected or the period of such coverage expires.

2. In any case in which a parent is required by a court or administrative order to provide medical coverage for a child, under any health benefit plan, as defined in section 454.600, and the parent is eligible for such health coverage through an employer doing business in Missouri, the employer or union shall:

(1) Permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage, without regard to any enrollment season restrictions;

(2) Enroll a child under family coverage upon application by the child's other parent, the family support division [of child support enforcement], the MO HealthNet division [of medical

services], or a tribunal of another state, if a parent is enrolled but fails to make application to obtain coverage of such child; and

(3) Not disenroll or eliminate coverage of any such child unless:

(a) The employer or union is provided satisfactory written evidence that such court or administrative order is no longer in effect; or

(b) The employer or union is provided satisfactory written evidence that the child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of such disenrollment; or

(c) The employer or union has eliminated family health coverage for all of its employees or members.

3. No insurer may impose any requirements on a state agency, which has been assigned the rights of an individual eligible for medical assistance under chapter 208 and covered for health benefits from the insurer, that are different from requirements applicable to an agent or assignee of any other individual so covered.

4. All insurers shall in any case in which a child has health coverage through the insurer of a noncustodial parent:

(1) Provide such information to the custodial parent or legal guardian as may be necessary for the child to obtain benefits through such coverage;

(2) Permit the custodial parent or legal guardian, or provider, with the custodial parent's approval, to submit claims for covered services without the approval of the noncustodial

parent; and

(3) Make payment on claims submitted in accordance with subdivision (2) of this subsection directly to the parent, the provider, or the MO HealthNet division [of medical services].

5. The MO HealthNet division [of medical services] may garnish the wages, salary, or other employment income of, and require withholding amounts from state tax refunds, pursuant to section 143.783, to any person who:

(1) Is required by court or administrative order to provide coverage of the costs of health services to a child who is eligible for medical assistance under Medicaid; and

(2) Has received payment from a third party for the costs of such services to such child, but has not used such payment to reimburse, as appropriate, either the other parent or guardian of such child or the provider of such services, to the extent necessary to reimburse the MO HealthNet division [of medical services] for expenditures for such costs under its plan. However, claims for current or past due child support shall take priority over claims by the MO HealthNet division [of medical services].

6. The remedies for the collection and enforcement of medical support established in this section are in addition to and not in substitution for other remedies provided by law and apply without regard to when the order was entered.

454.853. The courts and the family support division [of child support enforcement] are the tribunals of this state.

454.902. (a) The family support division [of child support enforcement] is the state information agency under sections

454.850 to 454.997.

(b) The state information agency shall:

(1) compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under sections 454.850 to 454.997, and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state;

(2) maintain a register of tribunals and support enforcement agencies received from other states;

(3) forward to the appropriate tribunal in the place in this state in which the individual obligee or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under sections 454.850 to 454.997, received from an initiating tribunal or the state information agency of the initiating state; and

(4) obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and Social Security.

454.1000. As used in sections 454.1000 to 454.1025, the following terms mean:

(1) "Arrearage", the amount created by a failure to provide:

(a) Support to a child pursuant to an administrative or judicial support order; or

(b) Support to a spouse if the judgment or order requiring payment of spousal support also requires payment of child support and such spouse is the custodial parent;

(2) "Child", a person for whom child support is due pursuant to a support order;

(3) "Court", any circuit court of the state that enters a support order or a circuit court in which such order is registered or filed;

(4) "Director", the director of the family support division **[**of child support enforcement**]**;

(5) "Division", the family support division **[**of child support enforcement**]** of the department of social services;

(6) "IV-D case", a case in which support rights are assigned to the state pursuant to section 208.040 or the division is providing support enforcement services pursuant to section 454.425;

(7) "License", a license, certificate, registration or authorization issued by a licensing authority granting a person a right or privilege to engage in a business, occupation, profession, recreation or other related privilege that is subject to suspension, revocation, forfeiture or termination by the licensing authority prior to its date of expiration, except for any license issued by the department of conservation. Licenses include licenses to operate motor vehicles pursuant to chapter 302, but shall not include motor vehicle registrations pursuant to chapter 301;

(8) "Licensing authority", any department, except for the department of conservation, division, board, agency or instrumentality of this state or any political subdivision thereof that issues a license. Any board or commission assigned to the division of professional registration is included in the definition of licensing authority;

(9) "Obligee":

(a) A person to whom payments are required to be made pursuant to a support order; or

(b) A public agency of this or any other state which has the right to receive current or accrued support payments or provides support enforcement services pursuant to this chapter;

(10) "Obligor", a person who owes a duty of support;

(11) "Order suspending a license", an order issued by a court or the director to suspend a license. The order shall contain the name of the obligor, date of birth of the obligor, the type of license and the Social Security number of the obligor;

(12) "Payment plan" includes, but is not limited to, a written plan approved by the court or division that incorporates an income withholding pursuant to sections 452.350 and 454.505 or a similar plan for periodic payment of an arrearage, and current and future support, if applicable;

(13) "Support order", an order providing a determinable amount for temporary or final periodic payment of support. Such order may include payment of a determinable amount of insurance, medical or other expenses of the child issued by:

(a) A court of this state;

(b) A court or administrative agency of competent jurisdiction of another state, an Indian tribe, or a foreign country; or

(c) The director of the division.

454.1003. 1. A court or the director of the family support division [of child support enforcement] may issue an order, or in the case of a business, professional or occupational license, only a court may issue an order, suspending an obligor's license and ordering the obligor to refrain from engaging in a licensed activity in the following cases:

(1) When the obligor is not making child support payments in accordance with a support order and owes an arrearage in an amount greater than or equal to three months support payments or two thousand five hundred dollars, whichever is less, as of the date of service of a notice of intent to suspend such license; or

(2) When the obligor or any other person, after receiving appropriate notice, fails to comply with a subpoena of a court or the director concerning actions relating to the establishment of paternity, or to the establishment, modification or enforcement of support orders, or order of the director for genetic testing.

2. In any case but a IV-D case, upon the petition of an obligee alleging the existence of an arrearage, a court with jurisdiction over the support order may issue a notice of intent to suspend a license. In a IV-D case, the director, or a court at the request of the director, may issue a notice of intent to suspend.

3. The notice of intent to suspend a license shall be served on the obligor personally or by certified mail. If the

proposed suspension of license is based on the obligor's support arrearage, the notice shall state that the obligor's license shall be suspended sixty days after service unless, within such time, the obligor:

(1) Pays the entire arrearage stated in the notice;

(2) Enters into and complies with a payment plan approved by the court or the division; or

(3) Requests a hearing before the court or the director.

4. In a IV-D case, the notice shall advise the obligor that hearings are subject to the contested case provisions of chapter 536.

5. If the proposed suspension of license is based on the alleged failure to comply with a subpoena relating to paternity or a child support proceeding, or order of the director for genetic testing, the notice of intent to suspend shall inform the person that such person's license shall be suspended sixty days after service, unless the person complies with the subpoena or order.

6. If the obligor fails to comply with the terms of repayment agreement, a court or the division may issue a notice of intent to suspend the obligor's license.

7. In addition to the actions to suspend or withhold licenses pursuant to this chapter, a court or the director of the family support division **[**of child support enforcement**]** may restrict such licenses in accordance with the provisions of this chapter.

454.1023. The family support division **[**of child support enforcement**]** is hereby authorized, pursuant to a cooperative

agreement with the supreme court, to develop procedures which shall permit the clerk of the supreme court to furnish the division, at least once each year, with a list of persons currently licensed to practice law in this state. If any such person has an arrearage in an amount equal to or greater than three months of support payments or two thousand five hundred dollars, the division shall notify the clerk of the supreme court that such person has an arrearage.

454.1027. Notwithstanding any provision of sections 454.1000 to 454.1027 to the contrary, the following procedures shall apply between the family support division **[**of child support enforcement**]** and the department of conservation regarding the suspension of hunting and fishing licenses:

(1) The family support division **[**of child support enforcement**]** shall be responsible for making the determination whether an individual's license should be suspended based on the reasons specified in section 454.1003, after ensuring that each individual is provided due process, including appropriate notice and opportunity for administrative hearing;

(2) If the family support division **[**of child support enforcement**]** determines, after completion of all due process procedures available to an individual, that an individual's license should be suspended, the division shall notify the department of conservation. The department or commission shall develop a rule consistent with a cooperative agreement between the family support division **[**of child support enforcement**]**, the department of conservation and the conservation commission, and in accordance with 42 U.S.C. Section 666(a)(16) which shall

require the suspension of a license for any person based on the reasons specified in section 454.1003. Such suspension shall remain in effect until the department is notified by the division that such suspension should be stayed or terminated because the individual is now in compliance with applicable child support laws.

454.1029. For obligors that have been making regular child support payments in accordance with an agreement entered into with the family support division [of child support enforcement], the license shall not be suspended while the obligor honors such agreement.

483.163. 1. Each circuit clerk, except the circuit clerk in any city not within a county, shall cooperate with the prosecuting attorney and family support division [of child support enforcement] in the investigation and documentation of possible criminal nonsupport pursuant to section 568.040.

2. Other provisions of law to the contrary notwithstanding, for the performance of the duties prescribed in subsection 1 of this section, each circuit clerk, except the circuit clerk in any city not within a county, in addition to any other compensation provided by law, shall receive five thousand dollars per year beginning January 1, 1997. Such compensation shall be payable in equal installments in the same manner and at the same time as other compensation is paid to the circuit clerk.

3. For every year beginning July 1, 1998, the amount of increased compensation established in subsection 2 of this section shall be adjusted by any salary adjustment authorized pursuant to section 476.405.

487.080. Except as provided in section 487.130 and, notwithstanding any other provision of law to the contrary, the family court shall have exclusive original jurisdiction to hear and determine the following matters:

(1) All actions or proceedings governed by chapter 452 including but not limited to dissolution of marriage, legal separation, separate maintenance, child custody and modification actions;

(2) Actions for annulment of marriage;

(3) Adoption actions and all actions and proceedings conducted pursuant to the provisions of chapter 453;

(4) Juvenile proceedings and all actions as provided for in chapter 211;

(5) Actions to establish the parent and child relationship, except actions to establish a person as an heir, devisee or trust beneficiary, and all actions provided for in chapter 210;

(6) Actions for determination of support duties and for enforcement of support, including actions under the uniform reciprocal enforcement of support act and actions provided for in chapter 454. Family court personnel shall not duplicate any functions performed by the family support division **[**of child support enforcement**]** or local prosecuting attorney but shall cooperate with the family support division **[**of child support enforcement**]** or the local prosecuting attorney;

(7) Adult abuse and child protection actions and all actions provided for in chapter 455;

(8) Change of name actions;

(9) Marriage license waiting period waivers under chapter

451.

487.150. The administrative judge of the family court, or if none, the presiding judge of each circuit having a family court division or each circuit having a family court division in a county in the circuit may appoint a family court coordinating committee, which shall meet at least quarterly and shall serve as a liaison for the professions, agencies and organizations which utilize or provide services connected with the family court. The committee may be comprised of the following:

(1) A family court judge, commissioner and administrator;

(2) Two members of the Missouri Bar who are actively engaged in the practice of family law;

(3) A representative from the children's division **[**of family services**]**;

(4) A representative from the division of youth services;

(5) Two professional counselors, psychologists or psychiatrists;

(6) A representative from a local educational institution;

(7) A representative from the general public;

(8) A representative from an organized grandparents' association; and

(9) A representative from a domestic violence coalition.

513.430. 1. The following property shall be exempt from attachment and execution to the extent of any person's interest therein:

(1) Household furnishings, household goods, wearing apparel, appliances, books, animals, crops or musical instruments that are held primarily for personal, family or household use of

such person or a dependent of such person, not to exceed three thousand dollars in value in the aggregate;

(2) A wedding ring not to exceed one thousand five hundred dollars in value and other jewelry held primarily for the personal, family or household use of such person or a dependent of such person, not to exceed five hundred dollars in value in the aggregate;

(3) Any other property of any kind, not to exceed in value six hundred dollars in the aggregate;

(4) Any implements or professional books or tools of the trade of such person or the trade of a dependent of such person not to exceed three thousand dollars in value in the aggregate;

(5) Any motor vehicles, not to exceed three thousand dollars in value in the aggregate;

(6) Any mobile home used as the principal residence but not attached to real property in which the debtor has a fee interest, not to exceed five thousand dollars in value;

(7) Any one or more unmatured life insurance contracts owned by such person, other than a credit life insurance contract;

(8) The amount of any accrued dividend or interest under, or loan value of, any one or more unmatured life insurance contracts owned by such person under which the insured is such person or an individual of whom such person is a dependent; provided, however, that if proceedings under Title 11 of the United States Code are commenced by or against such person, the amount exempt in such proceedings shall not exceed in value one hundred fifty thousand dollars in the aggregate less any amount

of property of such person transferred by the life insurance company or fraternal benefit society to itself in good faith if such transfer is to pay a premium or to carry out a nonforfeiture insurance option and is required to be so transferred automatically under a life insurance contract with such company or society that was entered into before commencement of such proceedings. No amount of any accrued dividend or interest under, or loan value of, any such life insurance contracts shall be exempt from any claim for child support. Notwithstanding anything to the contrary, no such amount shall be exempt in such proceedings under any such insurance contract which was purchased by such person within one year prior to the commencement of such proceedings;

(9) Professionally prescribed health aids for such person or a dependent of such person;

(10) Such person's right to receive:

(a) A Social Security benefit, unemployment compensation or a public assistance benefit;

(b) A veteran's benefit;

(c) A disability, illness or unemployment benefit;

(d) Alimony, support or separate maintenance, not to exceed seven hundred fifty dollars a month;

(e) Any payment under a stock bonus plan, pension plan, disability or death benefit plan, profit-sharing plan, nonpublic retirement plan or any plan described, defined, or established pursuant to section **[**456.072**]** <u>456.014</u>, the person's right to a participant account in any deferred compensation program offered by the state of Missouri or any of its political subdivisions, or

annuity or similar plan or contract on account of illness, disability, death, age or length of service, to the extent reasonably necessary for the support of such person and any dependent of such person unless:

a. Such plan or contract was established by or under the auspices of an insider that employed such person at the time such person's rights under such plan or contract arose;

b. Such payment is on account of age or length of service; and

c. Such plan or contract does not qualify under Section 401(a), 403(a), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as amended, (26 U.S.C. 401(a), 403(a), 403(b), 408, 408A or 409);

except that any such payment to any person shall be subject to attachment or execution pursuant to a qualified domestic relations order, as defined by Section 414(p) of the Internal Revenue Code of 1986, as amended, issued by a court in any proceeding for dissolution of marriage or legal separation or a proceeding for disposition of property following dissolution of marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of marital property at the time of the original judgment of dissolution;

(f) Any money or assets, payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan, profit-sharing plan, health savings plan, or similar plan, including an inherited account or plan, that is qualified under Section 401(a), 403(a), 403(b),

408, 408A or 409 of the Internal Revenue Code of 1986, as amended, whether such participant's or beneficiary's interest arises by inheritance, designation, appointment, or otherwise, except as provided in this paragraph. Any plan or arrangement described in this paragraph shall not be exempt from the claim of an alternate payee under a qualified domestic relations order; however, the interest of any and all alternate payees under a qualified domestic relations order shall be exempt from any and all claims of any creditor, other than the state of Missouri through its **[**division of family**]** <u>department of social</u> services. As used in this paragraph, the terms "alternate payee" and "qualified domestic relations order" have the meaning given to them in Section 414(p) of the Internal Revenue Code of 1986, as amended. If proceedings under Title 11 of the United States Code are commenced by or against such person, no amount of funds shall be exempt in such proceedings under any such plan, contract, or trust which is fraudulent as defined in subsection 2 of section 428.024 and for the period such person participated within three years prior to the commencement of such proceedings. For the purposes of this section, when the fraudulently conveyed funds are recovered and after, such funds shall be deducted and then treated as though the funds had never been contributed to the plan, contract, or trust;

(11) The debtor's right to receive, or property that is traceable to, a payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

2. Nothing in this section shall be interpreted to exempt from attachment or execution for a valid judicial or administrative order for the payment of child support or maintenance any money or assets, payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan which is qualified pursuant to Section 408A of the Internal Revenue Code of 1986, as amended.

516.350. 1. Every judgment, order or decree of any court of record of the United States, or of this or any other state, territory or country, except for any judgment, order, or decree awarding child support or maintenance or dividing pension, retirement, life insurance, or other employee benefits in connection with a dissolution of marriage, legal separation or annulment which mandates the making of payments over a period of time or payments in the future, shall be presumed to be paid and satisfied after the expiration of ten years from the date of the original rendition thereof, or if the same has been revived upon personal service duly had upon the defendant or defendants therein, then after ten years from and after such revival, or in case a payment has been made on such judgment, order or decree, and duly entered upon the record thereof, after the expiration of ten years from the last payment so made, and after the expiration of ten years from the date of the original rendition or revival upon personal service, or from the date of the last payment, such judgment shall be conclusively presumed to be paid, and no execution, order or process shall issue thereon, nor shall any suit be brought, had or maintained thereon for any purpose whatever. An action to emancipate a child, and any personal

service or order rendered thereon, shall not act to revive the support order.

2. In any judgment, order, or decree awarding child support or maintenance, each periodic payment shall be presumed paid and satisfied after the expiration of ten years from the date that periodic payment is due, unless the judgment has been otherwise revived as set out in subsection 1 of this section. This subsection shall take effect as to all such judgments, orders, or decrees which have not been presumed paid pursuant to subsection 1 of this section as of August 31, 1982.

3. In any judgment, order, or decree dividing pension, retirement, life insurance, or other employee benefits in connection with a dissolution of marriage, legal separation or annulment, each periodic payment shall be presumed paid and satisfied after the expiration of ten years from the date that periodic payment is due, unless the judgment has been otherwise revived as set out in subsection 1 of this section. This subsection shall take effect as to all such judgments, orders, or decrees which have not been presumed paid pursuant to subsection 1 of this section as of August 28, 2001.

4. In any judgment, order or decree awarding child support or maintenance, payment duly entered on the record as provided in subsection 1 of this section shall include recording of payments or credits in the automated child support system created pursuant to chapter 454 by the family support division **[**of child support enforcement**]** or payment center pursuant to chapter 454.

577.608. 1. The **[**department of public safety**]** state highways and transportation commission shall certify or cause to

be certified ignition interlock devices required by sections 577.600 to 577.614 and publish a list of approved devices.

2. The **[**department of public safety**]** commission shall adopt guidelines for the proper use of the ignition interlock devices in full compliance with sections 577.600 to 577.614.

3. The **[**department of public safety**]** commission shall use information from an independent agency to certify ignition interlock devices on or off the premises of the manufacturer in accordance with the guidelines. The cost of certification shall be borne by the manufacturers of interlock ignition devices. In certifying the devices, those which do not impede the safe operation of the vehicle and which have the fewest opportunities to be bypassed so as to render the provisions of sections 577.600 to 577.614 ineffective shall be certified.

4. No model of ignition interlock device shall be certified unless it meets the accuracy requirements specified by the guidelines of the **[**department of public safety**]** commission.

5. Before certifying any device, the **[**department of public safety**]** commission shall consult with the National Highway Traffic Safety Administration regarding the use of ignition interlock devices.

590.040. 1. The POST commission shall set the minimum number of hours of basic training for licensure as a peace officer no lower than four hundred seventy and no higher than six hundred, with the following exceptions:

(1) Up to one thousand hours may be mandated for any class of license required for commission by a state law enforcement agency;

(2) As few as one hundred twenty hours may be mandated for any class of license restricted to commission as a reserve peace officer with police powers limited to the commissioning political subdivision;

(3) Persons validly licensed on August 28, 2001, may retain licensure without additional basic training;

(4) Persons licensed and commissioned within a county of the third classification before July 1, 2002, may retain licensure with one hundred twenty hours of basic training if the commissioning political subdivision has adopted an order or ordinance to that effect;

(5) Persons serving as a reserve officer on August 27, 2001, within a county of the first classification or a county with a charter form of government and with more than one million inhabitants on August 27, 2001, having previously completed a minimum of one hundred sixty hours of training, shall be granted a license necessary to function as a reserve peace officer only within such county. For the purposes of this subdivision, the term "reserve officer" shall mean any person who serves in a less than full-time law enforcement capacity, with or without pay and who, without certification, has no power of arrest and who, without certification, must be under the direct and immediate accompaniment of a certified peace officer of the same agency at all times while on duty; and

(6) The POST commission shall provide for the recognition of basic training received at law enforcement training centers of other states, the military, the federal government and territories of the United States regardless of the number of

hours included in such training and shall have authority to require supplemental training as a condition of eligibility for licensure.

2. The director shall have the authority to limit any exception provided in subsection 1 of this section to persons remaining in the same commission or transferring to a commission in a similar jurisdiction.

3. The basic training of every peace officer, except agents of the conservation commission, shall include at least thirty hours of training in the investigation and management of cases involving domestic and family violence. Such training shall include instruction, specific to domestic and family violence cases, regarding: report writing; physical abuse, sexual abuse, child fatalities and child neglect; interviewing children and alleged perpetrators; the nature, extent and causes of domestic and family violence; the safety of victims, other family and household members and investigating officers; legal rights and remedies available to victims, including rights to compensation and the enforcement of civil and criminal remedies; services available to victims and their children; the effects of cultural, racial and gender bias in law enforcement; and state statutes. Said curriculum shall be developed and presented in consultation with the department of health and senior services, the children's division **[**of family services**]**, public and private providers of programs for victims of domestic and family violence, persons who have demonstrated expertise in training and education concerning domestic and family violence, and the Missouri coalition against domestic violence.

595.030. 1. No compensation shall be paid unless the claimant has incurred an out-of-pocket loss of at least fifty dollars or has lost two continuous weeks of earnings or support from gainful employment. "Out-of-pocket loss" shall mean unreimbursed or unreimbursable expenses or indebtedness reasonably incurred:

(1) For medical care or other services, including psychiatric, psychological or counseling expenses, necessary as a result of the crime upon which the claim is based, except that the amount paid for psychiatric, psychological or counseling expenses per eligible claim shall not exceed two thousand five hundred dollars; or

(2) As a result of personal property being seized in an investigation by law enforcement. Compensation paid for an out-of-pocket loss under this subdivision shall be in an amount equal to the loss sustained, but shall not exceed two hundred fifty dollars.

2. No compensation shall be paid unless the department of public safety finds that a crime was committed, that such crime directly resulted in personal physical injury to, or the death of, the victim, and that police records show that such crime was promptly reported to the proper authorities. In no case may compensation be paid if the police records show that such report was made more than forty-eight hours after the occurrence of such crime, unless the department of public safety finds that the report to the police was delayed for good cause. If the victim is under eighteen years of age such report may be made by the victim's parent, guardian or custodian; by a physician, a nurse,

or hospital emergency room personnel; by the children's division [of family services] personnel; or by any other member of the victim's family. In the case of a sexual offense, filing a report of the offense to the proper authorities may include, but not be limited to, the filing of the report of the forensic examination by the appropriate medical provider, as defined in section 595.220, with the prosecuting attorney of the county in which the alleged incident occurred.

3. No compensation shall be paid for medical care if the service provider is not a medical provider as that term is defined in section 595.027, and the individual providing the medical care is not licensed by the state of Missouri or the state in which the medical care is provided.

4. No compensation shall be paid for psychiatric treatment or other counseling services, including psychotherapy, unless the service provider is a:

(1) Physician licensed pursuant to chapter 334 or licensed to practice medicine in the state in which the service is provided;

(2) Psychologist licensed pursuant to chapter 337 or licensed to practice psychology in the state in which the service is provided;

(3) Clinical social worker licensed pursuant to chapter 337; or

(4) Professional counselor licensed pursuant to chapter 337.

5. Any compensation paid pursuant to sections 595.010 to 595.075 for death or personal injury shall be in an amount not

exceeding out-of-pocket loss, together with loss of earnings or support from gainful employment, not to exceed two hundred dollars per week, resulting from such injury or death. In the event of death of the victim, an award may be made for reasonable and necessary expenses actually incurred for preparation and burial not to exceed five thousand dollars.

6. Any compensation for loss of earnings or support from gainful employment shall be in an amount equal to the actual loss sustained not to exceed two hundred dollars per week; provided, however, that no award pursuant to sections 595.010 to 595.075 shall exceed twenty-five thousand dollars. If two or more persons are entitled to compensation as a result of the death of a person which is the direct result of a crime or in the case of a sexual assault, the compensation shall be apportioned by the department of public safety among the claimants in proportion to their loss.

7. The method and timing of the payment of any compensation pursuant to sections 595.010 to 595.075 shall be determined by the department.

595.036. 1. For any claim filed on or after August 28, 2013, any party aggrieved by a decision of the department of public safety on a claim under the provisions of sections 595.010 to **[**595.070**]** 595.075 may, within thirty days following the date of notification **[**of mailing**]** of such decision, file a petition with the **[**division of workers' compensation of the department of labor and industrial relations**]** department to have such decision heard de novo by **[**an administrative law judge**]** the director. The **[**administrative law judge**]** director may affirm**[**,**]** or reverse**[**, or

set aside] the department's decision [of the department of public safety] on the basis of the evidence previously submitted in such case or may take additional evidence [or may remand the matter to the department of public safety with directions] in reviewing the decision. The [division of workers' compensation] department shall promptly notify the [parties] party of its decision and the reasons therefor.

2. Any [of the parties to a decision of an administrative law judge of the division of workers' compensation, as provided by subsection 1 of this section, on a claim heard under the provisions of sections 595.010 to 595.070] party aggrieved by the department's decision may, within thirty days following the date of notification [or mailing] of such decision, file a petition with the [labor and industrial relations] administrative hearing commission to [have] appeal such decision [reviewed by the commission. The commission may allow or deny a petition for review. If a petition is allowed, the commission may affirm, reverse, or set aside the decision of the division of workers' compensation on the basis of the evidence previously submitted in such case or may take additional evidence or may remand the matter to the division of workers' compensation with directions. The commission shall promptly notify the parties of its decision and the reasons therefor.

3. Any petition for review filed pursuant to subsection 1 of this section shall be deemed to be filed as of the date endorsed by the United States Postal Service on the envelope or container in which such petition is received.

4. Any party who is aggrieved by a final decision of the

labor and industrial relations commission pursuant to the provisions of subsections 2 and 3 of this section shall within thirty days from the date of the final decision appeal the decision to the court of appeals. Such appeal may be taken by filing notice of appeal with commission, whereupon the commission shall, under its certificate, return to the court all documents and papers on file in the matter, together with a transcript of the evidence, the findings and award, which shall thereupon become the record of the cause. Upon appeal no additional evidence shall be heard and, in the absence of fraud, the findings of fact made by the commission within its powers shall be conclusive and binding. The court, on appeal, shall review only questions of law and may modify, reverse, remand for rehearing, or set aside the award upon any of the following grounds and no other:

(1) That the commission acted without or in excess of its powers;

(2) That the award was procured by fraud;

(3) That the facts found by the commission do not support the award;

(4) That there was not sufficient competent evidence in the record to warrant the making of the award**]** <u>as provided in section 621.275</u>.

595.037. 1. All information submitted to the department **[**or division of workers' compensation**]** and any hearing of the **[**division of workers' compensation**]** <u>department</u> on a claim filed pursuant to sections 595.010 to 595.075 shall be open to the public except for the following claims which shall be deemed

closed and confidential:

(1) A claim in which the alleged assailant has not been brought to trial and disclosure of the information or a public hearing would adversely affect either the apprehension, or the trial, of the alleged assailant;

(2) A claim in which the offense allegedly perpetrated against the victim is rape, sodomy or sexual abuse and it is determined by the department **[**or division of workers' compensation**]** to be in the best interest of the victim or of the victim's dependents that the information be kept confidential or that the public be excluded from the hearing;

(3) A claim in which the victim or alleged assailant is a minor; or

(4) A claim in which any record or report obtained by the department **[**or division of workers' compensation**]**, the confidentiality of which is protected by any other law, shall remain confidential subject to such law.

2. The department **[**and division of workers' compensation, by separate order,**]** may close any record, report or hearing if it determines that the interest of justice would be frustrated rather than furthered if such record or report was disclosed or if the hearing was open to the public.

595.060. The director shall promulgate rules and regulations necessary to implement the provisions of sections 595.010 to 595.220 as provided in this section and chapter 536. **[**In the performance of its functions under section 595.036, the division of workers' compensation is authorized to promulgate rules pursuant to chapter 536 prescribing the procedures to be

followed in the proceedings under section 595.036.**]** Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

610.029. 1. A public governmental body keeping its records in an electronic format is strongly encouraged to provide access to its public records to members of the public in an electronic format. A public governmental body is strongly encouraged to make information available in usable electronic formats to the greatest extent feasible. A public governmental body **[**may**]** shall not enter into a contract for the creation or maintenance of a public records database if that contract impairs the ability of the public to inspect or copy the public records of that agency, including public records that are online or stored in an electronic record-keeping system used by the agency. Such contract **[**may**]** shall not allow any impediment that as a practical matter makes it more difficult for the public to inspect or copy the records than to inspect or copy the public governmental body's records. For purposes of this section, a usable electronic format shall allow, at a minimum, viewing and printing

of records. However, if the public governmental body keeps a record on a system capable of allowing the copying of electronic documents into other electronic documents, the public governmental body shall provide data to the public in such electronic format, if requested. The activities authorized pursuant to this section **[**may**]** shall not take priority over the primary responsibilities of a public governmental body. For purposes of this section the term "electronic services" means online access or access via other electronic means to an electronic file or database. This subsection shall not apply to contracts initially entered into before August 28, 2004.

2. Public governmental bodies shall include in a contract for electronic services provisions that:

(1) Protect the security and integrity of the information system of the public governmental body and of information systems that are shared by public governmental bodies; and

(2) Limit the liability of the public governmental body providing the services.

3. Each public governmental body may consult with the **[**division of data processing and telecommunications**]** information technology services division of the office of administration to develop the electronic services offered by the public governmental body to the public pursuant to this section.

610.120. 1. Records required to be closed shall not be destroyed; they shall be inaccessible to the general public and to all persons other than the defendant except as provided in this section and section 43.507. The closed records shall be available to: criminal justice agencies for the administration

of criminal justice pursuant to section 43.500, criminal justice employment, screening persons with access to criminal justice facilities, procedures, and sensitive information; to law enforcement agencies for issuance or renewal of a license, permit, certification, or registration of authority from such agency including but not limited to watchmen, security personnel, private investigators, and persons seeking permits to purchase or possess a firearm; those agencies authorized by section 43.543 to submit and when submitting fingerprints to the central repository; the sentencing advisory commission created in section 558.019 for the purpose of studying sentencing practices in accordance with section 43.507; to qualified entities for the purpose of screening providers defined in section 43.540; the department of revenue for driver license administration; the **[**division of workers' compensation**]** department of public safety for the purposes of determining eligibility for crime victims' compensation pursuant to sections 595.010 to 595.075, department of health and senior services for the purpose of licensing and regulating facilities and regulating in-home services provider agencies and federal agencies for purposes of criminal justice administration, criminal justice employment, child, elderly, or disabled care, and for such investigative purposes as authorized by law or presidential executive order.

2. These records shall be made available only for the purposes and to the entities listed in this section. A criminal justice agency receiving a request for criminal history information under its control may require positive identification, to include fingerprints of the subject of the

record search, prior to releasing closed record information. Dissemination of closed and open records from the Missouri criminal records repository shall be in accordance with section 43.509. All records which are closed records shall be removed from the records of the courts, administrative agencies, and law enforcement agencies which are available to the public and shall be kept in separate records which are to be held confidential and, where possible, pages of the public record shall be retyped or rewritten omitting those portions of the record which deal with the defendant's case. If retyping or rewriting is not feasible because of the permanent nature of the record books, such record entries shall be blacked out and recopied in a confidential book.

620.010. 1. There is hereby created a "Department of Economic Development" to be headed by a director appointed by the governor, by and with the advice and consent of the senate. All of the general provisions, definitions and powers enumerated in section 1 of the Omnibus State Reorganization Act of 1974 shall continue to apply to this department and its divisions, agencies and personnel.

2. The powers, duties and functions vested in the public service commission, chapters 386, 387, 388, 389, 390, 392, 393, and others, and the administrative hearing commission, sections 621.015 to 621.198 and others, are transferred by type III transfers to the department of economic development. The director of the department is directed to provide and coordinate staff and equipment services to these agencies in the interest of facilitating the work of the bodies and achieving optimum

efficiency in staff services common to all the bodies. Nothing in the Reorganization Act of 1974 shall prevent the chairman of the public service commission from presenting additional budget requests or from explaining or clarifying its budget requests to the governor or general assembly.

3. The powers, duties and functions vested in the office of the public counsel are transferred by type III transfer to the department of economic development. Funding for the general counsel's office shall be by general revenue.

4. The public service commission is authorized to employ such staff as it deems necessary for the functions performed by the general counsel other than those powers, duties and functions relating to representation of the public before the public service commission.

5. All the powers, duties and functions vested in the tourism commission, chapter 258 and others, are transferred to the "Division of Tourism", which is hereby created, by type III transfer.

6. All the powers, duties and functions of the department of community affairs, chapter 251 and others, not otherwise assigned, are transferred by type I transfer to the department of economic development, and the department of community affairs is abolished. The director of the department of economic development may assume all the duties of the director of community affairs or may establish within the department such subunits and advisory committees as may be required to administer the programs so transferred. The director of the department shall appoint all members of such committees and heads of

subunits.

7. The state council on the arts, chapter 185 and others, is transferred by type II transfer to the department of economic development, and the members of the council shall be appointed by the director of the department.

8. The Missouri housing development commission, chapter 215, is assigned to the department of economic development, but shall remain a governmental instrumentality of the state of Missouri and shall constitute a body corporate and politic.

9. All the authority, powers, duties, functions, records, personnel, property, matters pending and other pertinent vestiges of the division of manpower planning of the department of social services are transferred by a type I transfer to the "Division of **[**Job Development and Training**]** Workforce Development", which is hereby created, within the department of economic development. The division of manpower planning within the department of social services is abolished. The provisions of section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, relating to the manner and procedures for transfers of state agencies shall apply to the transfers provided in this section.

10. All the authority, powers, functions, records, personnel, property, contracts, matters pending and other pertinent vestiges of the division of employment security within the department of labor and industrial relations related to job training and labor exchange that are funded with or based upon Wagner-Peyser funds, and other federal and state workforce development programs administered by the division of employment security are transferred by a type I transfer to the division of

workforce development within the department of economic development.

11. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

[288.270.**]** 620.484. The provisions of the Wagner-Peyser Act (29 U.S.C.A. Sec. 49 et seq.), as amended, are hereby accepted by this state and the division of **[**employment security**]** workforce development of the department of economic development is hereby designated and constituted the agency of this state for the purposes of said act. The division shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of this chapter and for the purposes of performing such functions as are within the purview of the Wagner-Peyser Act.

620.490. The department of economic development shall promulgate rules providing for the coordination of state and federal job training resources administered by the department of economic development, including the **[**service delivery**]** local workforce investment areas established in the state to administer

federal funds pursuant to the federal [Job Training Partnership] Workforce Investment Act or its successor, for the provision of assistance to businesses in this state relating to the creation of new jobs in the state. The department shall include in these rules the methods to be followed by any business engaged in the creation of new jobs in state to ensure that economically disadvantaged citizens receive opportunities for employment in the new jobs created. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

620.556. As used in sections 620.552 to 620.574 the following terms mean:

(1) "Corps" and "youth corps", the Missouri youth service and conservation corps;

(2) "Division", the division of [job development and training] workforce development within the department of economic development;

(3) "Local workforce investment boards", the local workforce investment boards established under Section 117 of the Workforce Investment Act, Public Law 105-220, as amended, or any other succeeding administrative body established by subsequent federal legislation to provide for the local administration and expenditure of funding for employment and job training and approved by the division of workforce development;

(4) "Participant", a person who has been hired, or who has been accepted as a volunteer, and who meets the program eligibility criteria established by sections 620.552 to 620.574;

[(4) "Private industry council", the private industry councils established pursuant to the Job Training Partnership Act, Public Law 97-300, as amended, or any other succeeding administrative body established by subsequent federal legislation to provide for the local administration and expenditure of funding for employment and job training and approved by the division of job training and development;**]**

(5) "Project", an undertaking designed to provide or assist in providing services to promote conservation, public health, education and welfare among the general population. The term includes, but is not limited to:

(a) The rehabilitation of substandard housing;

(b) The repair, restoration and maintenance of public facilities and amenities;

(c) Assistance with the organization and delivery of educational and health services;

(d) Assistance for the elderly homebound;

(e) Delivery of food to the hungry and elderly;

(f) Restoration or development of park facilities;

(g) Trail construction and maintenance;

(h) Litter control;

(i) Land and soil conservation and rehabilitation;

(j) Road repair;

(k) Land reclamation;

(l) Reforestation; and

(m) Other undertakings which benefit the control, management, restoration and conservation of the bird, fish, game, forestry, or wildlife resources, and soil or water resources of

this state;

(6) "Project sponsor", state agencies, including the departments of elementary and secondary education, social services, labor and industrial relations, conservation, and natural resources and the University of Missouri extension system; any unit of local government, including school districts; private not-for-profit corporations or organizations; administrative entities designated pursuant to the requirements of the **[**Job Training Partnership**]** Workforce Investment Act and any subsequent amendments; and community-based organizations.

620.558. 1. The Missouri youth service and conservation corps shall consist of the following programs:

(1) A year-round community services and conservation program for young adults;

(2) A summer employment program;

(3) A volunteer program for youths.

2. In selecting participants for the youth service and conservation corps, the director of the division shall give preference to persons who are high school dropouts and who are at risk of not graduating from high school. The director may segregate programs and funds to serve such persons to enhance the efficiency of administering any federal **[**Job Training Partnership**]** Workforce Investment Act funds which are available to the youth service and conservation corps.

3. Residents of both urban and rural areas of the state shall be eligible to apply to participate in the youth service and conservation corps. No person who has been convicted of a felony within the previous two years shall be eligible to

participate in the youth service and conservation corps. Participants shall be unemployed at the time of their enrollment.

620.560. 1. The community services and conservation program for young adults shall consist of projects offering participants paid work experience integrated with educational activities which may include, but is not limited to, employability skills training and educational remediation activities.

2. Participants who are high school dropouts shall work toward the completion of their graduate equivalency diploma and shall be excused from work according to a planned work schedule proposed by the project sponsor and approved by the division of **[**job development and training**]** workforce development in its review of a project application, to allow them to attend classes or gain instruction. The division of **[**job development and training**]** workforce development shall work with the department of elementary and secondary education to establish criteria for determining participants who may be at risk of not earning a high school diploma. Participants who meet these criteria shall be required to attend remediation classes designed to assist in the retention and successful completion of high school according to a planned work schedule proposed by the project sponsor and approved by the division in its review of a project application. All participants shall be paid a wage according to a work plan approved by the division, and commensurate with the number of hours worked by the participant. During the last three weeks of employment, all participants may be granted eight hours of paid time each week to search for permanent employment.

620.562. 1. The summer employment program shall consist of projects offering needed paid work experience integrated with educational activities which may include, but is not limited to, employability skills training and educational remediation activities. Participants shall be unemployed at the time of their enrollment.

2. Participants in the program shall be paid a wage according to a work plan approved by the division of **[**job development and training**]** workforce development, and commensurate with the number of hours worked by the participant. If participants are high school dropouts, they shall be required to work toward the completion of their graduate equivalency diploma while employed in the summer employment and remediation program. The division of **[**job development and training**]** workforce development shall work with the department of elementary and secondary education to establish criteria for determining participants who may be at risk of not earning a high school diploma. Participants who meet these criteria shall be required to attend remediation classes designed to assist in the retention and successful completion of high school.

620.566. 1. The division of **[**job development and training**]** workforce development within the department of economic development is hereby authorized to administer the Missouri youth service and conservation corps programs and adopt rules and regulations governing their operation and participation requirements.

2. The division shall cooperate with and may directly contract with all state agencies, local units of government and

any of the governor's advisory councils or commissions, or their successor agencies, and with private not-for-profit organizations in delivery of youth corps programs. For purposes of this section, the contracting process of the division with these entities need not be governed by the provisions of chapter 34.

3. Upon application to the division and subject to the availability of funds, the division is authorized to provide funding assistance through contracts with administrative entities, designated pursuant to the **[**Job Training Partnership**]** Workforce Investment Act and any subsequent amendments, and project sponsors. The application shall form the basis for the contract agreement and, at a minimum, shall include:

(1) A general project description, including the extent to which it satisfies community development or resource conservation objectives and whether or not such objectives are stated within any municipal, county, regional or state agency plan;

(2) The number of corps members to be assigned to each project, a description of the nature and duration of their employment or volunteer work, and a description of combinations or sequences of education or vocational training to be provided;

(3) The amount of total funds required to sustain the project, distinguishing between the amounts required for corps members' wages and stipends, if any, and the amounts required for other purposes;

(4) A statement of the amount and purpose of funding assistance requested from the division and the manner and timing of its disbursement;

(5) A description of the interagency coordination,

technical assistance and financial support which together with the funding assistance, the resources of the applicant and support from any other source, is sufficient to ensure the success of the project. The commitment of financial support from the project sponsor shall be equal to or greater than twenty-five percent of the amount of the total project cost.

4. An application shall only be submitted to the division after review by the private industry council operating within the service delivery area in which the project is to be located, regardless of the actual project sponsor. It shall include the signatures of the **[**private industry council chairman**]** workforce investment board chairperson and the designated chief local elected official of the **[**service delivery**]** local workforce investment area.

5. The division shall ensure that all affected state agencies are made aware of the application and are provided the opportunity to offer comments related to the project feasibility, including the identification of other available funds for the project.

620.570. 1. The Missouri training and employment council, as established in section 620.523, shall review and recommend criteria for evaluating project funding assistance, program criteria, and other requirements and priorities to be used by the division in the evaluation and monitoring of Missouri youth service and conservation corps projects.

2. The division shall work with the department of higher education, the department of elementary and secondary education, all colleges, universities and lending institutions throughout

the state to develop a system of academic credit, tuition grants and deferred loan repayment incentives for young adults who enroll and complete participation in corps programs. The division shall adopt rules under chapter 536 designed to implement any such incentive programs.

3. The division of workforce development of the department of economic development [and the department of labor and industrial relations] shall establish and promote the recruitment of "Show-Me Employers" which shall consist of Missouri-based corporations and businesses agreeing to interview, for entry-level jobs, participants successfully completing a youth corps program.

4. The division of [employment security within the department of labor and industrial relations] workforce development of the department of economic development shall recognize and promote within the labor exchange system the youth service corps and the potential benefits of hiring participants who have successfully completed any of the corps' programs.

620.572. The directors of the departments of conservation, economic development, social services, elementary and secondary education, labor and industrial relations, and natural resources and the director of the University of Missouri extension system shall meet regularly to establish appropriate allocations from their respective budgets to be made for the operation of the Missouri youth service and conservation corps. Funding for the operation of the corps may come from, but not be limited to, moneys available through the federal Carl Perkins Act, the federal [Job Training Partnership] Workforce Investment Act, the

federal Wagner-Peyser Act, the one-eighth of one cent sales tax as authorized by Sections 43(a) and 43(b) of Article IV of the Missouri Constitution, and other discretionary funds which may be available to the various departments and to the governor's office.

620.1100. 1. The "Youth Opportunities and Violence Prevention Program" is hereby established in the division of community and economic development of the department of economic development to broaden and strengthen opportunities for positive development and participation in community life for youth, and to discourage such persons from engaging in criminal and violent behavior. For the purposes of section 135.460, this section and section 620.1103, the term "advisory committee" shall mean an advisory committee to the division of community and economic development established pursuant to this section composed of ten members of the public. The ten members of the advisory committee shall include members of the private sector with expertise in youth programs, and at least one person under the age of twenty-one. Such members shall be appointed for two-year terms by the director of the department of economic development.

2. The "Youth Opportunities and Violence Prevention Fund" is hereby established in the state treasury and shall be administered by the department of economic development. The department may accept for deposit into the fund any grants, bequests, gifts, devises, contributions, appropriations, federal funds, and any other funds from whatever source derived. Moneys in the fund shall be used solely for purposes provided in section 135.460, this section and section 620.1103. Any unexpended

balance in the fund at the end of a fiscal year shall be exempt from the provisions of section 33.080 relating to the transfer of unexpended balances to the general revenue fund.

3. The department of economic development in conjunction with the advisory committee shall establish program criteria and evaluation methods for tax credits claimed pursuant to section 135.460. Such criteria and evaluation methods shall measure program effectiveness and outcomes, and shall give priority to local, neighborhood, community-based programs. The department shall monitor and evaluate all programs funded pursuant to section 135.460, this section and section 620.1103. Such programs shall provide a priority for applications from areas of the state which have statistically higher incidence of crime, violence and poverty and such programs shall be funded before the programs which have applied from areas which do not exhibit crime, violence, and poverty to the same degree. The committee shall focus and support specific programs designed to generate self-esteem and a positive self-reliance in youth and which abate youth violence.

4. The department shall develop and operate a database which lists all participating and related programs. The database shall include indexes and cross references and shall be accessible by the public by computer-modem connection. The information technology services division **[**of data processing and telecommunications**]** of the office of administration and the department of economic development shall cooperate with the advisory committee in the development and operation of the program.

620.1580. 1. There is hereby established within the department of economic development the "Advisory Committee for Electronic Commerce". The purpose of the committee shall be to advise the various agencies of the state of Missouri on issues related to electronic commerce.

2. The committee shall be composed of thirteen members, who shall be appointed by the director of the department of economic development, as follows:

(1) One member shall be the director of the department of economic development;

(2) One member shall be an employee of the department of revenue;

(3) One member shall be an employee of the department of labor and industrial relations;

(4) One member shall be the secretary of state;

(5) One member shall be the chief information officer for the **[**office of technology**]** information technology services division;

(6) Seven members shall be from the business community, with at least one such member being from an organization representative of industry, and with at least one such member being from an organization representative of independent businesses, and with at least one such member being from an organization representative of retail business, and with at least one such member being from an organization representative of local or regional commerce; and

(7) One member shall be from the public at large.

3. The members of the committee shall serve for terms of

two years duration, and may be reappointed at the discretion of the director of the department of economic development. Members of the committee shall not be compensated for their services, but shall be reimbursed for actual and necessary expenses incurred in the performance of their service on the committee.

4. The director of the department of economic development shall serve as chair of the committee and shall designate an employee or employees of the department of economic development to staff the committee, or to chair the committee in the director's absence.

5. The committee shall meet at such places and times as are designated by the director of the department of economic development, but shall not meet less than twice per calendar year.

621.275. 1. Any person shall have the right to appeal to the administrative hearing commission from any decision made by the department of public safety under section 595.036 regarding such person's claim for compensation as provided in sections 595.010 to 595.075.

2. Any person filing an appeal with the administrative hearing commission shall be entitled to a hearing before the commission. The person shall file a petition with the commission within thirty days after the decision of the director of the department of public safety is sent in the United States mail or within thirty days after the decision is delivered, whichever is earlier. The director's decision shall contain a notice of the person's right to appeal:

"If you were adversely affected by this decision, you may

appeal to the administrative hearing commission. To appeal, you must file a petition with the administrative hearing commission within thirty days after the date this decision was delivered. If your petition is sent by registered or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method other than registered mail, it will be deemed filed on the date it is received by the commission.".

3. Decisions of the administrative hearing commission under this section shall be binding subject to appeal by either party. The procedures established under chapter 536 shall apply to any hearings and determinations under this section.

630.097. 1. The department of mental health shall develop, in partnership with all departments represented on the children's services commission, a unified accountable comprehensive children's mental health service system. The department of mental health shall establish a state interagency comprehensive children's mental health service system team comprised of representation from:

(1) Family-run organizations and family members;

(2) Child advocate organizations;

(3) The department of health and senior services;

(4) The department of social services' children's division, division of youth services, and the MO HealthNet division **[**of medical services**]**;

(5) The department of elementary and secondary education;

(6) The department of mental health's division of alcohol and drug abuse, division of developmental disabilities, and the division of comprehensive psychiatric services;

(7) The department of public safety;

(8) The office of state courts administrator;

(9) The juvenile justice system; and

(10) Local representatives of the member organizations of the state team to serve children with emotional and behavioral disturbance problems, developmental disabilities, and substance abuse problems.

The team shall be called "The Comprehensive System Management Team". There shall be a stakeholder advisory committee to provide input to the comprehensive system management team to assist the departments in developing strategies and to ensure positive outcomes for children are being achieved. The department of mental health shall obtain input from appropriate consumer and family advocates when selecting family members for the comprehensive system management team, in consultation with the departments that serve on the children's services commission. The implementation of a comprehensive system shall include all state agencies and system partner organizations involved in the lives of the children served. These system partners may include private and not-for-profit organizations and representatives from local system of care teams and these partners may serve on the stakeholder advisory committee. The department of mental health shall promulgate rules for the implementation of this section in consultation with all of the departments represented on the children's services commission.

2. The department of mental health shall, in partnership with the departments serving on the children's services

commission and the stakeholder advisory committee, develop a state comprehensive children's mental health service system plan. This plan shall be developed and submitted to the governor, the general assembly, and children's services commission by December, 2004. There shall be subsequent annual reports that include progress toward outcomes, monitoring, changes in populations and services, and emerging issues. The plan shall:

(1) Describe the mental health service and support needs of Missouri's children and their families, including the specialized needs of specific segments of the population;

(2) Define the comprehensive array of services including services such as intensive home-based services, early intervention services, family support services, respite services, and behavioral assistance services;

(3) Establish short- and long-term goals, objectives, and outcomes;

(4) Describe and define the parameters for local implementation of comprehensive children's mental health system teams;

(5) Describe and emphasize the importance of family involvement in all levels of the system;

(6) Describe the mechanisms for financing, and the cost of implementing the comprehensive array of services;

(7) Describe the coordination of services across child-serving agencies and at critical transition points, with emphasis on the involvement of local schools;

(8) Describe methods for service, program, and system evaluation;

(9) Describe the need for, and approaches to, training and technical assistance; and

(10) Describe the roles and responsibilities of the state and local child-serving agencies in implementing the comprehensive children's mental health care system.

3. The comprehensive system management team shall collaborate to develop uniform language to be used in intake and throughout the provision of services.

4. The comprehensive children's mental health services system shall:

(1) Be child centered, family focused, strength based, and family driven, with the needs of the child and family dictating the types and mix of services provided, and shall include the families as full participants in all aspects of the planning and delivery of services;

(2) Provide community-based mental health services to children and their families in the context in which the children live and attend school;

(3) Respond in a culturally competent and responsive manner;

(4) Emphasize prevention, early identification, and intervention;

(5) Assure access to a continuum of services that:

(a) Educate the community about the mental health needs of children;

(b) Address the unique physical, behavioral, emotional, social, developmental, and educational needs of children;

(c) Are coordinated with the range of social and human

services provided to children and their families by local school districts, the departments of social services, health and senior services, and public safety, juvenile offices, and the juvenile and family courts;

(d) Provide a comprehensive array of services through an integrated service plan;

(e) Provide services in the least restrictive most appropriate environment that meets the needs of the child; and

(f) Are appropriate to the developmental needs of children;

(6) Include early screening and prompt intervention to:

(a) Identify and treat the mental health needs of children in the least restrictive environment appropriate to their needs; and

(b) Prevent further deterioration;

(7) Address the unique problems of paying for mental health services for children, including:

(a) Access to private insurance coverage;

(b) Public funding, including:

a. Assuring that funding follows children across departments; and

b. Maximizing federal financial participation;

(c) Private funding and services;

(8) Assure a smooth transition from child to adult mental health services when needed;

(9) Coordinate a service delivery system inclusive of services, providers, and schools that serve children and youth with emotional and behavioral disturbance problems, and their families through state agencies that serve on the state

comprehensive children's management team; and

(10) Be outcome based.

5. By August 28, 2007, and periodically thereafter, the children's services commission shall conduct and distribute to the general assembly an evaluation of the implementation and effectiveness of the comprehensive children's mental health care system, including an assessment of family satisfaction and the progress of achieving outcomes.

632.070. The **[**division of family services of the**]** department of social services through its county family service offices shall cooperate with the facilities, programs and services operated or funded by the department in locating, referring and interviewing any persons who are in need of comprehensive psychiatric services. The parents or legal custodians of any minors shall consent to the treatment of the minors, and they shall be advised that they have the right to consult their regular physicians before giving their consent to any treatment.

650.005. 1. There is hereby created a "Department of Public Safety" in charge of a director appointed by the governor with the advice and consent of the senate. The department's role will be to provide overall coordination in the state's public safety and law enforcement program, to provide channels of coordination with local and federal agencies in regard to public safety, law enforcement and with all correctional and judicial agencies in regard to matters pertaining to its responsibilities as they may interrelate with the other agencies or offices of state, local or federal governments.

2. All the powers, duties and functions of the state highway patrol, chapter 43 and others, are transferred by type II transfer to the department of public safety. The governor by and with the advice and consent of the senate shall appoint the superintendent of the patrol. With the exception of sections 43.100 to 43.120 relating to financial procedures, the director of public safety shall succeed the state highways and transportation commission in approving actions of the superintendent and related matters as provided in chapter 43. Uniformed members of the patrol shall be selected in the manner provided by law and shall receive the compensation provided by law. Nothing in the Reorganization Act of 1974, however, shall be interpreted to affect the funding of appropriations or the operation of chapter 104 relating to retirement system coverage or section 226.160 relating to workers' compensation for members of the patrol.

3. All the powers, duties and functions of the supervisor of liquor control, chapter 311 and others, are transferred by type II transfer to the department of public safety. The supervisor shall be nominated by the department director and appointed by the governor with the advice and consent of the senate. The supervisor shall appoint such agents, assistants, deputies and inspectors as limited by appropriations. All employees shall have the qualifications provided by law and may be removed by the supervisor or director of the department as provided in section 311.670.

4. **[**The director of public safety, superintendent of the highway patrol and transportation division of the department of

economic development are to examine the motor carrier inspection laws and practices in Missouri to determine how best to enforce the laws with a minimum of duplication, harassment of carriers and to improve the effectiveness of supervision of weight and safety requirements and to report to the governor and general assembly by January 1, 1975, on their findings and on any actions taken.

5. The Missouri division of highway safety is transferred by type I transfer to the department of public safety. The division shall be in charge of a director who shall be appointed by the director of the department.

6.**]** All the powers, duties and functions of the safety and fire prevention bureau of the department of public health and welfare are transferred by type I transfer to the director of public safety.

[7.**]** 5. All the powers, duties and functions of the state fire marshal, chapter 320 and others, are transferred to the department of public safety by a type I transfer.

[8.**]** 6. All the powers, duties and functions of the law enforcement assistance council administering federal grants, planning and the like relating to Public Laws 90-351, 90-445 and related acts of Congress are transferred by type I transfer to the director of public safety. The director of public safety shall appoint such advisory bodies as are required by federal laws or regulations. The council is abolished.

[9.**]** 7. The director of public safety shall promulgate motor vehicle regulations and be ex officio a member of the safety compact commission in place of the director of revenue and

all powers, duties and functions relating to chapter 307 are transferred by type I transfer to the director of public safety.

[10.**]** 8. The office of adjutant general and the state militia are assigned to the department of public safety; provided, however, nothing herein shall be construed to interfere with the powers and duties of the governor as provided in Article IV, Section 6 of the Constitution of the state of Missouri or chapter 41.

[11.**]** 9. All the powers, duties and functions of the Missouri boat commission, chapter 306 and others, are transferred by type I transfer to the "Missouri State Water Patrol", which is hereby created, in the department of public safety. The Missouri boat commission and the office of secretary to the commission are abolished. All deputy boat commissioners and all other employees of the commission who were employed on February 1, 1974, shall be transferred to the water patrol without further qualification. Effective January 1, 2011, all the powers, duties, and functions of the Missouri state water patrol are transferred to the division of water patrol within the Missouri state highway patrol as set out in section 43.390.

[12.**]** 10. The Missouri veterans's commission, chapter 42, is assigned to the department of public safety.

[13.**]** 11. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with

the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

660.010. 1. There is hereby created a "Department of Social Services" in charge of a director appointed by the governor, by and with the advice and consent of the senate. All the powers, duties and functions of the director of the department of public health and welfare, chapters 191 and 192, and others, not previously reassigned by executive reorganization plan number 2 of 1973 as submitted by the governor under chapter 26 except those assigned to the department of mental health, are transferred by type I transfer to the director of the department of social services and the office of the director, department of public health and welfare is abolished. The department of public health and welfare is abolished. All employees of the department of social services shall be covered by the provisions of chapter 36 except the director of the department and **[**his**]** <u>the director's</u> secretary, all division directors and their secretaries, and no more than three additional positions in each division which may be designated by the division director.

2. It is the intent of the general assembly in establishing the department of social services, as provided herein, to authorize the director of the department to coordinate the state's programs devoted to those unable to provide for themselves and for the rehabilitation of victims of social disadvantage. The director shall use the resources provided to

the department to provide comprehensive programs and leadership striking at the roots of dependency, disability and abuse of society's rules with the purpose of improving service and economical operations. The department is directed to take all steps possible to consolidate and coordinate the field operations of the department to maximize service to the citizens of the state.

3. **[**All the powers, duties and functions of the division of welfare, chapters 205, 207, 208, 209, and 210 and others, are transferred by type I transfer to the "Division of Family Services" which is hereby created in the department of social services. The director of the division shall be appointed by the director of the department.**]** All references to the division of welfare shall hereafter be construed to mean the **[**division of family services of the**]** department of social services or the appropriate division or unit within the department.

4. The state's responsibility under public law 452 of the eighty-eighth Congress and others, pertaining to the Office of Economic Opportunity, is transferred by type I transfer to the department of social services.

5. The state's responsibility under public law 73, Older Americans Act of 1965, of the eighty-ninth Congress is transferred by type I transfer to the department of social services.

6. All the powers, duties and functions vested by law in the curators of the University of Missouri relating to crippled children's services, chapter 201, are transferred by type I transfer to the department of social services.

7. All the powers, duties and functions vested in the state board of training schools, chapter 219 and others, are transferred by type I transfer to the "Division of Youth Services" hereby authorized in the department of social services headed by a director appointed by the director of the department. The state board of training schools shall be reconstituted as an advisory board on youth services, appointed by the director of the department. The advisory board shall visit each facility of the division as often as possible, shall file a written report with the director of the department and the governor on conditions they observed relating to the care and rehabilitative efforts in behalf of children assigned to the facility, the security of the facility and any other matters pertinent in their judgment. Copies of these reports shall be filed with the legislative library. Members of the advisory board shall receive reimbursement for their expenses and twenty-five dollars a day for each day they engage in official business relating to their duties. The members of the board shall be provided with identification means by the director of the division permitting immediate access to all facilities enabling them to make unannounced entrance to facilities they wish to inspect.

660.014. 1. As used in this section, "provider" means any person, partnership, corporation, not-for-profit corporation, professional corporation, or other business or public entity that enters into a contract or provider agreement with the MO HealthNet division or the Missouri Medicaid audit and compliance unit for the purpose of providing services or equipment to eligible persons, and obtaining reimbursement therefore, under

chapter 208 and Titles XIX and XXI of the Social Security Act.

2. The Missouri Medicaid audit and compliance unit is a unit within the department of social services under the supervision of the director of the department of social services, and shall have and exercise all the powers and duties necessary to carry out fully and effectively the purposes assigned to it by law and by the director of the department of social services. The director of the Missouri Medicaid audit and compliance unit shall be appointed by the director of the department of social services.

3. The Missouri Medicaid audit and compliance unit shall be responsible for MO HealthNet program provider enrollment functions and auditing MO HealthNet providers for compliance with the laws and regulations governing the MO HealthNet program, including Titles XIX and XXI of the Social Security Act. This includes:

(1) Establishing policy for and administering the MO HealthNet provider enrollment system, including but is not limited to reviewing applications of providers to determine eligibility, enrolling and reenrolling providers in the MO HealthNet program, and suspending, sanctioning, terminating, excluding or revoking provider enrollment in the MO HealthNet program, including Titles XIX and XXI of the Social Security Act;

(2) Auditing MO HealthNet program providers' compliance with the laws, regulations, policies, manuals, and procedures governing the MO HealthNet program, including Titles XIX and XXI of the Social Security Act and, where applicable, the laws,

regulations, policies, manuals, and procedures of other departments of the state of Missouri;

(3) Assessing sanctions and overpayments, ordering to implement corrective action plans, and other administrative actions against MO HealthNet providers according to regulations promulgated by the department of social services, the MO HealthNet division, the Missouri Medicaid audit and compliance unit, and other departments of the state of Missouri;

(4) Administering the MO HealthNet participant lock-in program;

(5) Conducting audits of managed care organizations participating in the MO HealthNet program for compliance with the laws, regulations, and policies governing the MO HealthNet program;

(6) Conducting investigations into alleged fraud, noncompliance, and misuse of MO HealthNet program funds by providers, including Titles XIX and XXI of the Social Security Act;

(7) Auditing all MO HealthNet program accounts receivable and accounts payable related to providers; and

(8) Working in conjunction with the Centers for Medicare & Medicaid Services to provide information necessary to perform Medicaid integrity group audits and analyze and assess payment error rate measurement and state program integrity assessment.

4. No provider of services to or on behalf of MO HealthNet program participants shall be paid for such services unless it is an enrolled provider through the Missouri Medicaid audit and compliance unit.

5. In addition to the powers, duties, and functions vested in the Missouri Medicaid audit and compliance unit by other provisions of this chapter or by other laws of this state, the Missouri Medicaid audit and compliance unit shall have the power to adopt, amend, and rescind such rules and regulations necessary or desirable to perform its duties under state law and not inconsistent with the constitution or laws of this state. All rules shall be promulgated under the provisions of chapter 536. No rule or portion of a rule promulgated under the authority of this section shall become effective until it has been promulgated pursuant to the provisions of section 536.024.

6. Any person authorized under section 208.153 to provide services for which benefit payments are authorized under section 208.152 who is aggrieved by a decision of the Missouri Medicaid audit and compliance unit may seek administrative review of that decision by the administrative hearing commission as provided in section 208.156. Nothing in this subsection shall be construed to extend the jurisdiction or authority of the administrative hearing commission beyond that provided in section 208.156.

7. Any MO HealthNet participant who is aggrieved by a decision of the Missouri Medicaid audit and compliance unit under the participant lock-in program may request administrative review by the director of the Missouri Medicaid audit and compliance unit of the decision under procedures set out in section 208.080.

660.075. 1. The MO HealthNet division **[**of medical services**]** and the Missouri Medicaid audit and compliance unit shall not issue a provider agreement to an intermediate care facility for the mentally retarded provider after May 29, 1991,

unless and until the department of mental health transmits a certification of authorization to provide services, provided, however, a profit or not-for-profit provider may operate a single home of six beds or less without issuance of a certificate to the MO HealthNet division [of medical services]. Such certification shall be provider specific and shall contain the number of beds authorized.

2. Notwithstanding any other provision of law to the contrary, any provider intending to operate an intermediate care facility for the mentally retarded in excess of those beds in existence on May 29, 1991, shall give notice to the department of mental health of any intent to do so between July first and October first of the fiscal year preceding the fiscal year in which they intend to operate such facility.

3. In addition to other good cause as established by administrative rules promulgated by the director of the department of mental health, such intermediate care facility for the mentally retarded operations as may be accommodated within the home and community-based waiver for the developmentally disabled shall be refused certificates of authorization by the department of mental health. The MO HealthNet division [of medical services] and the Missouri Medicaid audit and compliance unit shall refuse intermediate care facility for the mentally retarded provider agreements to providers to whom the department of mental health has refused certificates of authorization.

660.130. The department of social services shall design the forms and issue rules and regulations necessary to carry out the provisions of sections 660.100 to 660.136. No rule or portion of

a rule promulgated under the authority of sections 660.100 to 660.136 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024. Such rules shall provide that in order for a homeowner to be eligible such homeowner shall have met federal energy conservation guidelines for insulation, or have made application for insulation under the department of natural resources program or like program offered in the state of Missouri. Large notices of the availability of this program shall be posted in application areas and local offices of the family support division **[**of family services**]**.

660.523. 1. By January 1, 1991, using approved state child abuse and neglect federal grant funds, the department of social services shall develop uniform protocols for investigations of child sexual abuse cases pursuant to chapter 210 and shall provide training to children's division **[**of family services**]** employees who investigate reports of such cases.

2. The department of social services shall develop separate protocols for multiple-suspect and multiple-victim cases.

660.525. The children's division **[**of family services**]** may provide treatment services for child sexual abuse victims in instances where the perpetrator is not listed in section 210.110 as a person responsible for the care, custody and control of the child, if treatment funds are available and such treatment services are requested by the family of the child.

660.526. The children's division **[**of family services**]** shall ensure that all employees and persons with contracts with the division and who specialize in either the treatment, prosecution, or investigation of child sexual abuse cases receive a minimum of

fifteen hours of annual training. Such training shall be in the investigation, prosecution, treatment, nature, extent and causes of sexual abuse.

660.620. 1. There is hereby established an "Office of Advocacy and Assistance for Senior Citizens" within the office of lieutenant governor.

2. The senior citizen advocate shall coordinate activities with the long-term care ombudsman program, as defined in section 660.600, on complaints made by or on behalf of senior citizens residing in long-term care facilities.

3. The senior citizen advocate shall conduct a suitable investigation into any actions complained of unless the senior citizen advocate finds that the complaint pertains to a matter outside the scope of the authority of the senior citizen advocate, the complainant has no substantive or procedural interest which is directly affected by the matter complained about, or the complaint is trivial, frivolous, vexatious or not made in good faith.

4. After completing his or her investigation of a complaint, the senior citizen advocate shall inform the complainant, the agency, official or employee of action recommended by the senior citizen advocate. The senior citizen advocate shall make such reports and recommendations to the affected agencies, the governor and the general assembly as **[**he**]** the advocate deems necessary to further the purposes of sections 660.620 and 660.625.

5. The senior citizen advocate shall, in conjunction with the **[**division of**]** department of health and senior services, act

as a clearinghouse for information pertaining to and of interest to senior citizens and shall disseminate such information as is necessary to inform senior citizens of their rights and of governmental and nongovernmental services available to them.

660.690. In order to protect the community spouse of an individual living in a residential care facility or assisted living facility, as defined in section 198.006, from impoverishment and to prevent premature placement in a more expensive, more restrictive environment, the family support division **[**of family services**]** shall comply with the provisions of subsection 6 of section 208.010 when determining the eligibility for benefits pursuant to section 208.030.

701.336. 1. The department of health and senior services shall cooperate with the federal government in implementing subsections (d) and (e) of 15 U.S.C. 2685 to establish public education activities and an information clearinghouse regarding childhood lead poisoning. The department may develop additional educational materials on lead hazards to children, lead poisoning prevention, lead poisoning screening, lead abatement and disposal, and on health hazards during abatement.

2. The department of health and senior services and the department of social services, in collaboration with related not-for-profit organizations, health maintenance organizations, and the Missouri consolidated health care plan, shall devise an educational strategy to increase the number of children who are tested for lead poisoning under the Medicaid program. The goal of the educational strategy is to have seventy-five percent of the children who receive Medicaid tested for lead poisoning. The

educational strategy shall be implemented over a three-year period and shall be in accordance with all federal laws and regulations.

3. The children's division [of family services], in collaboration with the department of health and senior services, shall regularly inform eligible clients of the availability and desirability of lead screening and treatment services, including those available through the early and periodic screening, diagnosis, and treatment (EPSDT) component of the Medicaid program.

[33.753. The Missouri minority business advocacy commission, as established pursuant to section 33.752 shall, in addition to providing the governor with a plan to increase procurement from minority businesses by all state departments as provided in subsection 2 of section 33.752, also provide to the general assembly the findings of such plan and provide details of any recommended legislation that may be needed to carry out the provisions of the plan. The commission shall submit the plan and recommended legislation to the general assembly within six months of delivery of the original plan to the governor.]

[199.025. 1. Employees of the Missouri rehabilitation center may organize and file with the secretary of state an application as a not-for-profit corporation for the purpose of establishing a child day care center. The corporation so formed may enter into an agreement with the commissioner of administration for the lease of appropriate space at the rehabilitation center for use as the child day care center. The space at the center may be made available to the corporation at a rate to be established by the commissioner of administration.

2. The corporation may provide child day care at the Missouri rehabilitation center. The child day care center established by the corporation shall be licensed under the provisions of sections 210.201 to 210.245. The operation of the day care center shall be paid for by fees or charges, established by the corporation, and collected from those who use its services. The corporation may receive any private donations or grants from agencies of the federal government intended for

the support of the child day care center.

3. This section shall terminate thirty days following the date notice is provided to the revisor of statutes that an agreement has been executed which transfers the Missouri rehabilitation center from the department of health and senior services to the board of curators of the University of Missouri.**]**

[620.483. 1. The division of job development and training of the department of economic development and the private industry council, also referred to as PIC, located within each service delivery area, also referred to as SDA, as authorized by section 102 of the Job Training Reform Amendments of 1992, P.L. 102-367, shall adhere to the criteria in this section in order to more effectively enhance the state's job training efforts.

2. The division, with the advice and counsel of the Missouri training and employment council, shall develop a private industry council manual to provide a standardized, written introduction for new PIC members which explains the fundamental parts of the Job Training Partnership Act, the role of the private industry councils in fulfilling their statutory obligations, and to serve as a skill-building instrument in which PIC members can assume an effective leadership role.

3. Once a year, the division, in conjunction with the Missouri training and employment council, shall conduct a centralized PIC member orientation session. The session, open to all current PIC members, will provide training in the basic programs funded through the Job Training Partnership Act, the structure of the service delivery system, and training in federal and state work force development initiatives.

4. In accordance with section 101 of the Job Training Partnership Act, as amended, the Missouri training and employment council may make recommendations to the governor for the redesignation of service delivery areas.

5. Pursuant to section 302(c) of the federal Job Training Partnership Act, special state rapid response programs or worker adjustment services will be initiated by the division. Such activities may be conducted by state and local program operators and reviewed regularly by the division for performance and funding consideration.

6. A quorum of the full membership of each private industry council shall officially meet at least once every three months. A quorum shall not be deemed to be present unless at least fifty percent of the

private sector appointees are in attendance.

7. Pursuant to section 302(c)(2) of the federal Job Training Partnership Act, ten percent discretionary funds may be retained by the division until at least six months into each program year. Such funds shall then be allocated to service delivery areas that have experienced recent layoffs.

8. Each private industry council shall immediately inform the division of job development and training whenever any vacancy occurs on the PIC or when the term of a member has expired. Positions on private industry councils whose members' terms have expired and who are not replaced within ninety days shall be considered as vacant.

9. The division of job development and training is authorized to establish a minimum expenditure requirement for funds allocated to the service delivery areas under the Job Training Partnership Act. Adjustments to service delivery area allocations may be made on subsequent program year funding when underexpenditure occurs. This expenditure requirement shall be in addition to the federal requirement that in each program year eighty-five percent of federal Job Training Partnership Act funds are obligated by each service delivery area.**]**

[660.060. All authority, powers, duties, functions, records, personnel, property, contracts, budgets, matters pending and other pertinent vestiges of the division of aging shall be transferred to the department of health and senior services.**]**