

FIRST REGULAR SESSION

HOUSE BILL NO. 83

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE VEIT.

0789H.031

DANA RADEMAN MILLER, Chief Clerk

AN ACT

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

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

Section A. Sections 193.265, 214.330, 287.200, 287.470, 287.610, 287.615, 287.812, 287.835, 347.143, 435.014, 452.355, 455.010, 455.035, 455.513, 469.401, 469.402, 469.403, 469.405, 469.409, 469.411, 469.413, 469.415, 469.417, 469.419, 469.421, 469.423, 469.425, 469.427, 469.429, 469.431, 469.432, 469.433, 469.435, 469.437, 469.439, 469.441, 469.443, 469.445, 469.447, 469.449, 469.451, 469.453, 469.455, 469.457, 469.459, 469.461, 469.463, 469.465, 469.467, 477.650, 478.001, 487.110, 488.040, 488.426, 491.075, 492.304, 494.455, 509.520, 537.528, 559.125, 566.151, 567.030, 595.045, and 621.045, RSMo, are repealed and one hundred twenty-one new sections enacted in lieu thereof, to be known as sections 193.265, 214.330, 287.200, 287.470, 287.610, 287.615, 287.812, 287.835, 347.143, 452.355, 453.700, 453.702, 453.704, 453.706, 453.708, 453.710, 453.712, 453.714, 453.716, 453.718, 453.720, 453.722, 453.724, 453.726, 453.728, 453.730, 453.732, 453.734, 453.736, 453.738, 453.740, 453.742, 454.1050, 455.010, 455.035, 455.513, 469.399, 469.401, 469.402,

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

13 469.403, 469.404, 469.405, 469.413, 469.415, 469.417, 469.419, 469.421, 469.423, 469.425,
14 469.427, 469.429, 469.431, 469.432, 469.433, 469.435, 469.437, 469.439, 469.441, 469.443,
15 469.445, 469.446, 469.447, 469.449, 469.451, 469.453, 469.455, 469.456, 469.457, 469.459,
16 469.462, 469.463, 469.464, 469.465, 469.467, 469.471, 469.473, 469.475, 469.477, 469.479,
17 469.481, 469.483, 469.485, 469.487, 474.540, 474.542, 474.544, 474.546, 474.548, 474.550,
18 474.552, 474.554, 474.556, 474.558, 474.560, 474.562, 474.564, 474.600, 476.1025,
19 477.650, 478.001, 487.110, 488.040, 488.426, 491.075, 492.304, 494.455, 509.520,
20 510.500, 510.503, 510.506, 510.509, 510.512, 510.515, 510.518, 510.521, 537.529,
21 559.125, 566.151, 567.030, 595.045, and 621.045, to read as follows:

193.265. 1. For the issuance of a certification or copy of a death record, the applicant
2 shall pay a fee of fourteen dollars for the first certification or copy and a fee of eleven dollars
3 for each additional copy ordered at that time. For the issuance of a certification or copy of a
4 birth, marriage, divorce, or fetal death record, the applicant shall pay a fee of fifteen dollars.
5 No fee shall be required or collected for a certification of birth, death, or marriage if the
6 request for certification is made by the children's division, the division of youth services, a
7 guardian ad litem, or a juvenile officer on behalf of a child or person under twenty-one years
8 of age who has come under the jurisdiction of the juvenile court under section 211.031. All
9 fees collected under this subsection shall be deposited to the state department of revenue.
10 Beginning August 28, 2004, for each vital records fee collected, the director of revenue shall
11 credit four dollars to the general revenue fund, five dollars to the children's trust fund, one
12 dollar shall be credited to the endowed care cemetery audit fund, one dollar for each
13 certification or copy of death records to the Missouri state coroners' training fund established
14 in section 58.208, and three dollars for the first copy of death records and five dollars for
15 birth, marriage, divorce, and fetal death records shall be credited to the Missouri public health
16 services fund established in section 192.900. Money in the endowed care cemetery audit fund
17 shall be available by appropriation to the division of professional registration to pay its
18 expenses in administering sections 214.270 to 214.410. All interest earned on money
19 deposited in the endowed care cemetery audit fund shall be credited to the endowed care
20 cemetery fund. Notwithstanding the provisions of section 33.080 to the contrary, money
21 placed in the endowed care cemetery audit fund shall not be transferred and placed to the
22 credit of general revenue until the amount in the fund at the end of the biennium exceeds three
23 times the amount of the appropriation from the endowed care cemetery audit fund for the
24 preceding fiscal year. The money deposited in the public health services fund under this
25 section shall be deposited in a separate account in the fund, and moneys in such account, upon
26 appropriation, shall be used to automate and improve the state vital records system, and
27 develop and maintain an electronic birth and death registration system. For any search of the
28 files and records, when no record is found, the state shall be entitled to a fee equal to the

29 amount for a certification of a vital record for a five-year search to be paid by the applicant.
30 For the processing of each legitimation, adoption, court order or recording after the
31 registrant's twelfth birthday, the state shall be entitled to a fee equal to the amount for a
32 certification of a vital record. Except whenever a certified copy or copies of a vital record is
33 required to perfect any claim of any person on relief, or any dependent of any person who was
34 on relief for any claim upon the government of the state or United States, the state registrar
35 shall, upon request, furnish a certified copy or so many certified copies as are necessary,
36 without any fee or compensation therefor.

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

44 3. For the issuance of a certification or copy of a birth, marriage, divorce, or fetal
45 death record, the applicant shall pay a fee of fifteen dollars; except that, in any county with a
46 charter form of government and with more than six hundred thousand but fewer than seven
47 hundred thousand inhabitants, a donation of one dollar may be collected by the local registrar
48 over and above any fees required by law when a certification or copy of any marriage license
49 or birth certificate is provided, with such donations collected to be forwarded monthly by the
50 local registrar to the county treasurer of such county and the donations so forwarded to be
51 deposited by the county treasurer into the housing resource commission fund to assist
52 homeless families and provide financial assistance to organizations addressing homelessness
53 in such county. The local registrar shall include a check-off box on the application form for
54 such copies. All fees collected under this subsection, other than the donations collected in
55 any county with a charter form of government and with more than six hundred thousand but
56 fewer than seven hundred thousand inhabitants for marriage licenses and birth certificates,
57 shall be deposited to the official city or county health agency.

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

61 5. No fee under this section shall be required or collected from a parent or guardian of
62 a homeless child or homeless youth, as defined in subsection 1 of section 167.020, or an
63 unaccompanied youth, as defined in 42 U.S.C. Section 11434a(6), for the issuance of a
64 certification, or copy of such certification, of birth of such child or youth. An unaccompanied
65 youth shall be eligible to receive a certification or copy of his or her own birth record without

66 the consent or signature of his or her parent or guardian; provided, that only one certificate
67 under this provision shall be provided without cost to the unaccompanied or homeless youth.
68 For the issuance of any additional certificates, the statutory fee shall be paid.

69 6. (1) Notwithstanding any provision of law to the contrary, no fee shall be required
70 or collected for a certification of birth if the request is made by a victim of domestic violence
71 or abuse, as those terms are defined in section 455.010, and the victim provides
72 documentation signed by an employee, agent, or volunteer of a victim service provider, an
73 attorney, or a health care or mental health professional, from whom the victim has sought
74 assistance relating to the domestic violence or abuse. Such documentation shall state that,
75 under penalty of perjury, the employee, agent, or volunteer of a victim service provider, the
76 attorney, or the health care or mental health professional believes the victim has been
77 involved in an incident of domestic violence or abuse.

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

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

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

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

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

17 2. An endowed care trust fund shall be administered in accordance with Missouri law
18 governing trusts, including but not limited to the applicable provisions of chapters 456 and
19 469, except as specifically provided in this subsection or where the provisions of sections
20 214.270 to 214.410 provide differently, provided that a cemetery operator shall not in any

21 circumstances be authorized to restrict, enlarge, change, or modify the requirements of this
22 section or the provisions of chapters 456 and 469 by agreement or otherwise.

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

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

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

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

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

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

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

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

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

47 4. In addition to any other duty, obligation, or requirement imposed by sections
48 214.270 to 214.410 or the endowed care trust agreement, the trustee's duties shall be the
49 maintenance of records related to the trust and the accounting for and investment of moneys
50 deposited by the operator to the endowed care trust fund.

51 (1) For the purposes of sections 214.270 to 214.410, the trustee shall not be deemed
52 responsible for the care, the maintenance, or the operation of the cemetery, or for any other
53 matter relating to the cemetery, or the proper expenditure of funds distributed by the trustee to
54 the cemetery operator, including, but not limited to, compliance with environmental laws and
55 regulations.

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

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

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

71 (2) The cemetery operator shall have the duty and responsibility to apply the interest
72 to provide care and maintenance only for that part of the cemetery in which burial space shall
73 have been sold and with respect to which sales the escrow account shall have been established
74 and not for any other purpose. The principal of such funds shall be kept intact. The cemetery
75 operator's duties shall be the maintenance of records and the accounting for an investment of
76 moneys deposited by the operator to the escrow account. For purposes of sections 214.270 to
77 214.410, the administrator of the office of endowed care cemeteries shall not be deemed to be
78 responsible for the care, maintenance, or operation of the cemetery. With respect to cemetery
79 property maintained by cemetery care funds, the cemetery operator shall be responsible for
80 the performance of the care and maintenance of the cemetery property owned by the cemetery
81 operator.

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

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

87 7. Excluding funds held in an escrow account, all endowed care trust funds shall be
88 administered in accordance with an endowed care trust fund agreement, which shall be
89 submitted to the office by the cemetery operator for review and approval. The endowed care
90 cemetery shall be notified in writing by the office of endowed care cemeteries regarding the
91 approval or disapproval of the endowed care trust fund agreement and regarding any changes

92 required to be made for compliance with sections 214.270 to 214.410 and the rules and
93 regulations promulgated thereunder.

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

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

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

112 11. By accepting the trusteeship of an endowed care trust or accepting funds as an
113 escrow agent pursuant to sections 214.270 to 214.410, the trustee or escrow agent submits
114 personally to the jurisdiction of the courts of this state and the office of endowed care
115 cemeteries regarding the administration of the trust or escrow account. A trustee or escrow
116 agent shall consent in writing to the jurisdiction of the state of Missouri and the office in
117 regards to the trusteeship or the operation of the escrow account and to the appointment of the
118 office of secretary of state as its agent for service of process regarding any administrative or
119 legal actions relating to the trust or the escrow account, if it has no designated agent for
120 service of process located in this state. Such consent shall be filed with the office prior to
121 accepting funds pursuant to sections 214.270 to 214.410 as trustee or as an escrow agent on a
122 form provided by the office by rule.

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

6 whom compensation may be payable as provided in subsection 1 of section 287.020. The
7 amount of such compensation shall be computed as follows:

8 (1) For all injuries occurring on or after September 28, 1983, but before September
9 28, 1986, the weekly compensation shall be an amount equal to sixty-six and two-thirds
10 percent of the injured employee's average weekly earnings during the year immediately
11 preceding the injury, as of the date of the injury; provided that the weekly compensation paid
12 under this subdivision shall not exceed an amount equal to seventy percent of the state
13 average weekly wage, as such wage is determined by the division of employment security, as
14 of the July first immediately preceding the date of injury;

15 (2) For all injuries occurring on or after September 28, 1986, but before August 28,
16 1990, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent
17 of the injured employee's average weekly earnings during the year immediately preceding the
18 injury, as of the date of the injury; provided that the weekly compensation paid under this
19 subdivision shall not exceed an amount equal to seventy-five percent of the state average
20 weekly wage, as such wage is determined by the division of employment security, as of the
21 July first immediately preceding the date of injury;

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

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

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

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

40 3. (1) All claims for permanent total disability shall be determined in accordance
41 with the facts. ~~When an injured employee receives an award for permanent total disability~~
42 ~~but by the use of glasses, prosthetic appliances, or physical rehabilitation the employee is~~

43 ~~restored to his or her regular work or its equivalent, the life payment mentioned in subsection~~
44 ~~1 of this section shall be suspended during the time in which the employee is restored to his or~~
45 ~~her regular work or its equivalent.]~~ The employer and the division shall keep the file open in
46 the case during the lifetime of any injured employee who has received an award of permanent
47 total disability.

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

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

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

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

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

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

72 (a) For employers that have elected to accept mesothelioma liability under this
73 subsection, an additional amount of three hundred percent of the state's average weekly wage
74 for two hundred twelve weeks shall be paid by the employer or group of employers such
75 employer is a member of. Employers that elect to accept mesothelioma liability under this
76 subsection may do so by either insuring their liability, by qualifying as a self-insurer, or by
77 becoming a member of a group insurance pool. A group of employers may enter into an
78 agreement to pool their liabilities under this subsection. If such group is joined, individual
79 members shall not be required to qualify as individual self-insurers. Such group shall comply

80 with section 287.223. In order for an employer to make such an election, the employer shall
81 provide the department with notice of such an election in a manner established by the
82 department. The provisions of this paragraph shall expire on December 31, 2038; or

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

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

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

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

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

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

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

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

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

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

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

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

24 5.] The administrative law judges appointed by the division shall only have
25 jurisdiction to hear and determine claims upon original hearing and shall have no jurisdiction
26 upon any review hearing, either in the way of an appeal from an original hearing or by way of
27 reopening any prior award, except to correct a clerical error in an award or settlement if the
28 correction is made by the administrative law judge within twenty days of the original award
29 or settlement. The labor and industrial relations commission may remand any decision of an
30 administrative law judge for a more complete finding of facts. The commission may also
31 correct a clerical error in awards or settlements within thirty days of its final award. With
32 respect to original hearings, the administrative law judges shall have such jurisdiction and
33 powers as are vested in the division of workers' compensation under other sections of this
34 chapter, and wherever in this chapter the word "commission", "commissioners" or "division"
35 is used in respect to any original hearing, those terms shall mean the administrative law
36 judges appointed under this section. When a hearing is necessary upon any claim, the
37 division shall assign an administrative law judge to such hearing. Any administrative law
38 judge shall have power to approve contracts of settlement, as provided by section 287.390,
39 between the parties to any compensation claim or dispute under this chapter pending before
40 the division of workers' compensation. Any award by an administrative law judge upon an

41 original hearing shall have the same force and effect, shall be enforceable in the same manner
42 as provided elsewhere in this chapter for awards by the labor and industrial relations
43 commission, and shall be subject to review as provided by section 287.480.

44 ~~[6.]~~ **3.** Any of the administrative law judges employed pursuant to this section may be
45 assigned on a temporary basis to the branch offices as necessary in order to ensure the proper
46 administration of this chapter.

47 ~~[7.]~~ **4.** All administrative law judges shall be required to participate in, on a
48 continuing basis, specific training that shall pertain to those elements of knowledge and
49 procedure necessary for the efficient and competent performance of the administrative law
50 judges' required duties and responsibilities. Such training requirements shall be established
51 by the division subject to appropriations and shall include training in medical determinations
52 and records, mediation and legal issues pertaining to workers' compensation adjudication.
53 Such training may be credited toward any continuing legal education requirements.

54 ~~[8. (1) The administrative law judge review committee shall conduct a performance~~
55 ~~audit of all administrative law judges every two years. The audit results, stating the~~
56 ~~committee's recommendation of confidence or no confidence of each administrative law~~
57 ~~judge shall be sent to the governor no later than the first week of each legislative session~~
58 ~~immediately following such audit. Any administrative law judge who has received three or~~
59 ~~more votes of no confidence under two successive performance audits by the committee may~~
60 ~~have their appointment immediately withdrawn.~~

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

71 **5. The director of the division may file a complaint with the administrative**
72 **hearing commission, as provided under chapter 621, seeking to remove an**
73 **administrative law judge from office if the administrative law judge:**

74 **(1) Has committed any criminal offense, regardless of whether a criminal charge**
75 **has been filed;**

76 **(2) Has been convicted, or has entered a plea of guilty or nolo contendere, in a**
77 **criminal prosecution under the laws of any state, the United States, or of any country,**
78 **regardless of whether sentence is imposed;**

79 **(3) Is guilty of misconduct, habitual intoxication, willful neglect of duty,**
80 **corruption in office, or incompetency; or**

81 **(4) Has committed any act that involves moral turpitude or oppression in office.**

82 **6. (1) Prior to the filing of the complaint, the director shall notify the**
83 **administrative law judge in writing of the reasons for the complaint.**

84 **(2) If the reason for the complaint is willful neglect of duty or incompetency, the**
85 **administrative law judge shall have ninety days from the date the complaint was made**
86 **to remedy the complained of behavior. If such complained of behavior has not been**
87 **remedied after ninety days, the director may file the complaint with the administrative**
88 **hearing commission as provided by chapter 621.**

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

92 **(1) The grounds, provided in subsection 5 of this section, for disciplinary action**
93 **are met, the director may, singly or in combination, issue the following disciplinary**
94 **actions against the administrative law judge: removal from office, suspension from the**
95 **performance of duties for a period of time, or other discipline as determined by the**
96 **director. The director shall make a record of written findings of fact and conclusions of**
97 **law with respect to the issues and shall put a copy of such record in the administrative**
98 **law judge's permanent file; or**

99 **(2) There are no grounds for disciplinary action, the administrative law judge**
100 **shall immediately resume duties and shall receive any attorney's fees due under section**
101 **536.087.**

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

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

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

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

111 9. No rule or portion of a rule promulgated pursuant to the authority of this section
 112 shall become effective unless it has been promulgated pursuant to the provisions of chapter
 113 536.

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

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

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

11 ~~[(3)]~~ (2) For each administrative law judge in charge, compensation at the same rate
 12 as an administrative law judge plus five thousand dollars.

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

16 ~~[2-]~~ 3. The salary of the director of the division of workers' compensation shall be set
 17 by the director of the department of labor and industrial relations, but shall not be less than the
 18 salary plus two thousand dollars of an administrative law judge in charge. The appointees in
 19 each classification shall be selected as nearly as practicable in equal numbers from each of the
 20 two political parties casting the highest and the next highest number of votes for governor in
 21 the last preceding state election.

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

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

7 (2) "Beneficiary", a surviving spouse married to the deceased administrative law
 8 judge or legal advisor of the division of workers' compensation continuously for a period of at
 9 least two years immediately preceding the administrative law judge's or legal advisor's death
 10 and also on the day of the last termination of such person's employment as an administrative
 11 law judge or legal advisor for the division of workers' compensation, or if there is no
 12 surviving spouse eligible to receive benefits, any minor child of the deceased administrative
 13 law judge or legal advisor, or any child of the deceased administrative law judge or legal

14 advisor who, regardless of age, is unable to support himself because of intellectual disability,
 15 disease or disability, or any physical handicap or disability, who shall share in the benefits on
 16 an equal basis with all other beneficiaries;

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

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

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

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

25 [(7)] (6) "Legal advisor", any person appointed or employed pursuant to section
 26 287.600[;] or 287.615[; ~~or 287.616~~] to serve in the capacity as a legal advisor or an associate
 27 administrative law judge and any person appointed pursuant to section 286.010 or pursuant to
 28 section 295.030, and any attorney or legal counsel appointed or employed pursuant to section
 29 286.070;

30 [(8)] (7) "Salary", the total annual compensation paid for personal services as an
 31 administrative law judge or legal advisor, or both, of the division of workers' compensation
 32 by the state or any of its political subdivisions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 3. In any proceeding in which the failure to pay child support pursuant to a temporary
17 order or final judgment is an issue, if the court finds that the obligor has failed, without good
18 cause, to comply with such order or decree to pay the child support, the court shall order the

19 obligor, if requested and for good cause shown, to pay a reasonable amount for the cost of the
 20 suit to the obligee, including reasonable sums for legal services. The court may order that the
 21 amount be paid directly to the attorney, who may enforce the order in his name.

22 ~~[3-]~~ 4. For purposes of this section, an "obligor" is a person owing a duty of support
 23 and an "obligee" is a person to whom a duty of support is owed.

24 ~~[4-]~~ 5. For purposes of this section, "good cause" includes, **but shall not be limited**
 25 **to**, any substantial reason why the obligor is unable to pay the child support as ordered. Good
 26 cause does not exist if the obligor purposely maintains his inability to pay.

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

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

- 2 (1) "Child", an unemancipated individual under eighteen years of age;
 3 (2) "Child-placing agency", a person with authority under other law of this state
 4 to identify or place a child for adoption. The term "child-placing agency" does not
 5 include a parent of the child;
 6 (3) "Custody", the exercise of physical care and supervision of a child;
 7 (4) "Intercountry adoption", an adoption or placement for adoption of a child
 8 who resides in a foreign country at the time of adoption or placement. The term
 9 "intercountry adoption" includes an adoption finalized in the child's country of
 10 residence or in a state;
 11 (5) "Parent", an individual recognized as a parent under other law of this state;
 12 (6) "Person", an individual, estate, business or nonprofit entity, public
 13 corporation, government or governmental subdivision, agency, or instrumentality, or
 14 other legal entity;
 15 (7) "Record", information:
 16 (a) Inscribed on a tangible medium; or
 17 (b) Stored in an electronic or other medium and retrievable in perceivable form;
 18 (8) "State", a state of the United States, the District of Columbia, Puerto Rico,
 19 the United States Virgin Islands, or any other territory or possession subject to the
 20 jurisdiction of the United States. The term "state" includes a federally recognized
 21 Indian tribe.

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

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

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

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

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

3 (1) A parent of the child;

4 (2) A stepparent of the child;

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

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

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

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

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

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

9 (1) Adoption or guardianship;

10 (2) Judicial award of custody;

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

12 (4) Other judicial or tribal action; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Previously has been adopted in a state;

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

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

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

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

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

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

8 (b) A child leaving familiar ties and surroundings;

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

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

13 (4) Prohibitions under sections 453.710 and 453.714.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 2. The children's division may initiate a proceeding to determine whether a
6 child-placing agency has failed to comply with sections 453.718 to 453.732. If the
7 children's division finds that the child-placing agency has failed to comply, the

8 children's division may suspend or revoke the agency's license or take other action
9 permitted by law of this state.

453.732. The children's division may adopt rules under chapter 536 to
2 implement sections 453.722, 453.724, and 453.728. Any rule or portion of a rule, as that
3 term is defined in section 536.010, that is created under the authority delegated in this
4 section shall become effective only if it complies with and is subject to all of the
5 provisions of chapter 536 and, if applicable, section 536.028. This section and chapter
6 536 are nonseverable and if any of the powers vested with the general assembly
7 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul
8 a rule are subsequently held unconstitutional, then the grant of rulemaking authority
9 and any rule proposed or adopted after August 28, 2025, shall be invalid and void.

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

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

453.738. 1. Sections 453.706 to 453.716 apply to:

- 2 (1) A transfer of custody on or after August 28, 2025; and
- 3 (2) Soliciting or advertising on or after August 28, 2025.

4 2. Sections 453.718 to 453.732 apply to placement of a child for adoption more
5 than sixty days after August 28, 2025.

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

453.742. Sections 453.700 to 453.740 supplement the provisions under this
2 chapter and chapter 210 for the transfer of custody of a child. To the extent the
3 provisions under this chapter or chapter 210 are inconsistent with sections 453.700 to
4 453.740, the provisions of sections 453.700 to 453.740 control regarding the transfer of
5 custody of a child.

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

3 2. The court shall order a defendant convicted of the offense of driving while
4 intoxicated to pay restitution for a child whose parent or guardian died as a result of
5 such offense.

6 3. Notwithstanding any provision of law under chapter 559 relating to
7 restitution, and subject to subsection 4 of this section, the court shall determine a

8 **monthly amount to be paid for the support of the child until the child reaches eighteen**
9 **years of age or has graduated from high school, whichever is later.**

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

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

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

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

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

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

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

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

24 **(7) The financial resources of the defendant.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 33 (4) "Court", the circuit or associate circuit judge or a family court commissioner;
- 34 (5) "Domestic violence", abuse or stalking committed by a family or household
35 member, as such terms are defined in this section;
- 36 (6) "Ex parte order of protection", an order of protection issued by the court before
37 the respondent has received notice of the petition or an opportunity to be heard on it;
- 38 (7) "Family" or "household member", spouses, former spouses, any person related by
39 blood or marriage, persons who are presently residing together or have resided together in the
40 past, any person who is or has been in a continuing social relationship of a romantic or
41 intimate nature with the victim, and anyone who has a child in common regardless of whether
42 they have been married or have resided together at any time;
- 43 (8) "Full order of protection", an order of protection issued after a hearing on the
44 record where the respondent has received notice of the proceedings and has had an
45 opportunity to be heard;
- 46 (9) "Order of protection", either an ex parte order of protection or a full order of
47 protection;
- 48 (10) "Pending", exists or for which a hearing date has been set;
- 49 (11) "Pet", a living creature maintained by a household member for companionship
50 and not for commercial purposes;
- 51 (12) "Petitioner", a family or household member who has been a victim of domestic
52 violence, or any person who has been the victim of stalking or sexual assault, or a person
53 filing on behalf of a child pursuant to section 455.503 who has filed a verified petition
54 pursuant to the provisions of section 455.020 or section 455.505;
- 55 (13) "Respondent", the family or household member alleged to have committed an act
56 of domestic violence, or person alleged to have committed an act of stalking or sexual assault,
57 against whom a verified petition has been filed or a person served on behalf of a child
58 pursuant to section 455.503;
- 59 (14) "Sexual assault", as defined under subdivision (1) of this section;
- 60 (15) "Stalking", is when any person purposely engages in an unwanted course of
61 conduct that causes alarm to another person, or a person who resides together in the same
62 household with the person seeking the order of protection when it is reasonable in that
63 person's situation to have been alarmed by the conduct. As used in this subdivision:
- 64 (a) "Alarm", to cause fear of danger of physical harm; and
- 65 (b) "Course of conduct", two or more acts that serve no legitimate purpose including,
66 but not limited to, acts in which the stalker directly, indirectly, or through a third party
67 follows, monitors, observes, surveils, threatens, or communicates to a person by any action,
68 method, or device.

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

9 2. Failure to serve an ex parte order of protection on the respondent shall not affect 10 the validity or enforceability of such order. If the respondent is less than [~~seventeen~~] **eighteen** 11 years of age, unless otherwise emancipated, service of process shall be made upon a custodial 12 parent or guardian of the respondent, or upon a guardian ad litem appointed by the court, 13 requiring that the person appear and bring the respondent before the court at the time and 14 place stated.

15 3. If an ex parte order is entered and the respondent is less than [~~seventeen~~] **eighteen** 16 years of age, the court shall transfer the case to juvenile court for a hearing on a full order of 17 protection. The court shall appoint a guardian ad litem for any such respondent not 18 represented by a parent or guardian.

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

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

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

7

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

13 2. Upon the entry of the ex parte order of protection, the court shall enter its order 14 appointing a guardian ad litem or court-appointed special advocate to represent the child 15 victim.

16 3. If the allegations in the petition would give rise to jurisdiction under section 17 211.031, the court may direct the children's division to conduct an investigation and to 18 provide appropriate services. The division shall submit a written investigative report to the 19 court and to the juvenile officer within thirty days of being ordered to do so. The report shall

20 be made available to the parties and the guardian ad litem or court-appointed special
21 advocate.

22 4. If the allegations in the petition would give rise to jurisdiction under section
23 211.031 because the respondent is less than ~~[seventeen]~~ **eighteen** years of age, the court may
24 issue an ex parte order and shall transfer the case to juvenile court for a hearing on a full order
25 of protection. Service of process shall be made pursuant to section 455.035.

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

3 469.401. As used in sections ~~[469.401]~~ **469.399** to ~~[469.467]~~ **469.487**, the following
4 terms mean:

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

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

17 (3) "Beneficiary", includes:

18 (a) For a trust:

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

21 b. A remainder beneficiary; and

22 c. Any other successor beneficiary;

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

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

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

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

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

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

40 ~~[(3)]~~ (8) "Fiduciary", includes a trustee, trust protector determined in section
41 456.8-808, personal representative, ~~[trustee, executor, administrator, successor personal~~
42 ~~representative, special administrator and any other person performing substantially the same~~
43 ~~function]~~ life tenant, holder of a term "fiduciary" interest, and person acting under a
44 delegation from a fiduciary. The term "fiduciary" includes a person that holds property
45 for a successor beneficiary whose interest may be affected by an allocation of receipts
46 and expenditures between income and principal. If there are two or more cofiduciaries,
47 the term "fiduciary" includes all cofiduciaries acting under the terms of the trust and
48 applicable law;

49 ~~[(4)]~~ (9) "Income", money or other property ~~[that]~~ a fiduciary receives as current
50 return from ~~[a]~~ principal ~~[asset, including a portion]~~. The term "income" includes a part of
51 receipts from a sale, exchange, or liquidation of a principal asset, ~~[as]~~ to the extent provided
52 in sections 469.423 to 469.449;

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

55 ~~[(6)]~~ (10) "Income interest", the right of ~~[an]~~ a current income beneficiary to receive
56 all or part of net income, whether the terms of the trust require ~~[it]~~ the net income to be
57 distributed or authorize ~~[it]~~ the net income to be distributed in the ~~[trustee's]~~ fiduciary's
58 discretion. The term "income interest" includes the right of a current beneficiary to use
59 property held by a fiduciary;

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

61 (a) For a trust:

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

63 b. A settlor of the trust; or

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

66 (b) For an estate, a beneficiary;

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

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

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

74 ~~[(7)]~~ (12) "Mandatory income interest", the right of ~~[an]~~ a current income
75 beneficiary to receive net income that the terms of the trust require the fiduciary to distribute;

76 ~~[(8)]~~ (13) "Net income", ~~[if section 469.411 applies to the trust, the unitrust amount,~~
77 ~~or if section 469.411 does not apply to the trust,]~~ the total ~~[receipts allocated to income]~~
78 **allocations** during an accounting period **to income under the terms of a trust and sections**
79 **469.399 to 469.487** minus the disbursements ~~[made from income during the same period, plus~~
80 ~~or minus transfers pursuant to sections 469.401 to 469.467 to or from income during the same~~
81 ~~period]~~ **during the period, other than distributions, allocated to income under the terms**
82 **of the trust and sections 469.399 to 469.487. To the extent the trust is a unitrust under**
83 **sections 469.471 to 469.487, the term "net income" means the unitrust amount**
84 **determined thereunder. The term "net income" includes an adjustment from principal**
85 **to income under section 469.405. The term "net income" does not include an**
86 **adjustment from income to principal under section 469.405;**

87 ~~[(9)]~~ (14) "Person", an individual, ~~[corporation, business trust,]~~ estate, trust,
88 ~~[partnership, limited liability company, association, joint venture]~~ **business or nonprofit**
89 **entity, public corporation, government[;]** or governmental subdivision, agency, or
90 instrumentality, ~~[public corporation]~~ or ~~[any]~~ other legal ~~[or commercial]~~ entity;

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

94 ~~[(10)]~~ (16) "Principal", property held in trust for distribution to ~~[a remainder],~~
95 **production of income for, or use by a current or successor beneficiary** ~~[when the trust~~
96 ~~terminates];~~

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

98 ~~[(12)]~~ "Remainder beneficiary", a person entitled to receive principal when an income
99 interest ends;

100 ~~[(13)]~~ (17) "Record", information that is inscribed on a tangible medium or that
101 is stored in an electronic or other medium and is retrievable in perceivable form;

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

107 **(19) "Special tax benefit":**

108 **(a) Exclusion of a transfer to a trust from gifts described in 26 U.S.C. Section**
109 **2503(b), as amended, because of the qualification of an income interest in the trust as a**
110 **present interest in property;**

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

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

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

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

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

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

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

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

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

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

133 **(22) "Terms of a trust":**

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

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

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

- 139 **(b) The trust's provisions as established, determined, or amended by:**
 140 **a. A trustee or trust director in accordance with applicable law;**
 141 **b. Court order; or**
 142 **c. A nonjudicial settlement agreement under section 456.1-111;**
 143 **(c) For an estate, a will; or**
 144 **(d) For a life estate or term interest, the corresponding manifestation of the**
 145 **rights of the beneficiaries;**
 146 **(23) "Trust":**
 147 **(a) Includes:**
 148 **a. An express trust, private or charitable, with additions to the trust, wherever**
 149 **and however created; and**
 150 **b. A trust created or determined by judgment or decree under which the trust is**
 151 **to be administered in the manner of an express trust; and**
 152 **(b) Does not include:**
 153 **a. A constructive trust;**
 154 **b. A resulting trust, conservatorship, guardianship, multi-party account,**
 155 **custodial arrangement for a minor, business trust, voting trust, security arrangement,**
 156 **liquidation trust, or trust for the primary purpose of paying debts, dividends, interest,**
 157 **salaries, wages, profits, pensions, retirement benefits, or employee benefits of any kind;**
 158 **or**
 159 **c. An arrangement under which a person is a nominee, escrowee, or agent for**
 160 **another;**
 161 **~~[(14)]~~ (24) "Trustee", a person, other than a personal representative, that owns or**
 162 **holds property for the benefit of a beneficiary. The term "trustee" includes an original,**
 163 **additional, or successor trustee, whether or not appointed or confirmed by a court;**
 164 **~~[(15) "Unitrust amount", net income as defined by section 469.411]~~**
 165 **(25) "Will", any testamentary instrument recognized by applicable law that**
 166 **makes a legally effective disposition of an individual's property, effective at the**
 167 **individual's death. The term "will" includes a codicil or other amendment to a**
 168 **testamentary instrument.**
- 469.402. ~~[The provisions of sections 456.3-301 to 456.3-305 shall apply to sections~~
 2 469.401 to 469.467 for all purposes.] 1. Except as otherwise provided in the terms of a
 3 trust or sections 469.399 to 469.487, sections 469.399 to 469.487 apply to:
 4 (1) A trust or estate; and
 5 (2) A life estate or other term interest in which the interest of one or more
 6 persons will be succeeded by the interest of one or more other persons.

7 2. Except as otherwise provided in the terms of a trust or sections 469.399 to
8 469.487, sections 469.399 to 469.487 apply when this state is the principal place of
9 administration of a trust or estate or the situs of property that is not held in a trust or
10 estate and is subject to a life estate or other term interest described in subdivision (2) of
11 subsection 1 of this section. By accepting the trusteeship of a trust having its principal
12 place of administration in this state or by moving the principal place of administration
13 of a trust to this state, the trustee submits to the application of sections 469.399 to
14 469.487 to any matter within the scope of sections 469.399 to 469.487 involving the trust.

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

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

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

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

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

15 2. A fiduciary's allocation, determination, or exercise of discretion pursuant to
16 sections 469.399 to 469.487 is presumed to be fair and reasonable to all beneficiaries. A
17 fiduciary may exercise a discretionary power of administration given to the fiduciary by the
18 terms of the trust ~~[or the will, even if the]~~, and an exercise of the power that produces a result
19 different from a result required or permitted by sections ~~[469.401]~~ 469.399 to ~~[469.467;]~~
20 469.487 does not create an inference that the fiduciary abused the fiduciary's discretion.

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

22 3. A fiduciary shall:

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

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

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

39 **4. A fiduciary may exercise the power to adjust under section 469.405, convert**
40 **an income trust to a unitrust under subdivision (1) of subsection 1 of section 469.475,**
41 **change the percentage or method used to calculate a unitrust amount under subdivision**
42 **(2) of subsection 1 of section 469.475, or convert a unitrust to an income trust under**
43 **subdivision (3) of subsection 1 of section 469.475, if the fiduciary determines the exercise**
44 **of the power will assist the fiduciary to administer the trust or estate impartially.**

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

- 47 **(1) The terms of the trust;**
- 48 **(2) The nature, distribution standards, and expected duration of the trust;**
- 49 **(3) The effect of the allocation rules, including specific adjustments between**
50 **income and principal, under sections 407.413 to 407.461;**
- 51 **(4) The desirability of liquidity and regularity of income;**
- 52 **(5) The desirability of the preservation and appreciation of principal;**
- 53 **(6) The extent to which an asset is used or may be used by a beneficiary;**
- 54 **(7) The increase or decrease in the value of principal assets, reasonably**
55 **determined by the fiduciary;**
- 56 **(8) Whether and to what extent the terms of the trust give the fiduciary power to**
57 **accumulate income or invade principal or prohibit the fiduciary from accumulating**
58 **income or invading principal;**
- 59 **(9) The extent to which the fiduciary has accumulated income or invaded**
60 **principal in preceding accounting periods;**
- 61 **(10) The effect of current and reasonably expected economic conditions; and**
- 62 **(11) The reasonably expected tax consequences of the exercise of the power.**

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

- 2 **(1) A fiduciary's allocation between income and principal or other determination**
3 **regarding income and principal required or authorized by the terms of the trust or**
4 **sections 469.399 to 469.487;**

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

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

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

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

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

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

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

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

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

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

216.405. 1. ~~[A trustee may adjust between principal and income to the extent the~~
2 ~~trustee considers necessary if the trustee invests and manages trust assets as a prudent~~
3 ~~investor, the terms of the trust describe the amount that may or shall be distributed to a~~

4 beneficiary by referring to the trust's income, and the trustee determines, after applying
5 subsection 1 of section 469.403, that the trustee is unable to comply with subsection 2 of
6 section 469.403.] **Except as otherwise provided in the terms of a trust or this section, a
7 fiduciary, in a record, without court approval, may adjust between income and principal
8 if the fiduciary determines the exercise of the power to adjust will assist the fiduciary to
9 administer the trust or estate impartially.**

10 **2. This section does not create a duty to exercise or consider the power to adjust**
11 **under subsection 1 of this section or to inform a beneficiary about the applicability of**
12 **this section.**

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

16 ~~[2-]~~ **4. In deciding whether and to what extent to exercise the power [conferred by] to**
17 **adjust under subsection 1 of this section, a [trustee] fiduciary shall consider all factors the**
18 **fiduciary considers relevant [to the trust and its beneficiaries], including [the following]**
19 **relevant factors [to the extent relevant:] in subsection 5 of section 469.403 and the**
20 **application of sections 469.423, 469.435, and 469.445.**

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

22 ~~(2) The intent of the settlor;~~

23 ~~(3) The identity and circumstances of the beneficiaries;~~

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

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

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

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

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

39 ~~(9) The anticipated tax consequences of an adjustment.~~

40 ~~3-]~~ **5. A [trustee may] fiduciary shall not exercise the power under subsection 1 of**
41 **this section to make an adjustment or under section 469.435 to make a determination that**
42 **an allocation is insubstantial if:**

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

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

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

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

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

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

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

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

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

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

77 ~~[(7) If the trustee is a beneficiary of the trust; or~~
 78 ~~(8) If the trustee is not a beneficiary, but the adjustment would benefit the trustee~~
 79 ~~directly or indirectly]~~

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

81 ~~[4.] 6. If [subdivision (5), (6), (7) or (8) of] subsection [3] 5 of this section applies to a~~
 82 ~~[trustee and there is more than one trustee, a cotrustee to whom the provision does] fiduciary:~~

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

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

94 ~~[5.] 7. A [trustee] fiduciary may release [the entire power conferred by subsection 1~~
 95 ~~of this section, or may release only the power to adjust from income to principal or the power~~
 96 ~~to adjust from principal to income if the trustee is uncertain about whether possessing or~~
 97 ~~exercising the power will] or delegate to a cofiduciary the power to adjust under~~
 98 **subsection 1 of this section if the fiduciary determines that the fiduciary's possession or**
 99 **exercise of the power will or may:**

100 **(1) Cause a result described in subdivisions (1) to (6) or subdivision (8) of subsection**
 101 **[3] 5 of this section [5]; or [if the trustee determines that possessing or exercising the power**
 102 **will or may]**

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

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

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

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

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

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

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

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

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

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

119 ~~[6.]~~ **9.** Terms of a trust that **deny or** limit the power ~~[of a trustee]~~ to ~~[make an~~
 120 ~~adjustment]~~ **adjust** between **income and** principal ~~[and income]~~ do not affect the application
 121 of this section unless ~~[it is clear from]~~ the terms of the trust ~~[that the terms are intended to]~~
 122 **expressly deny [the trustee] or limit** the power ~~[of adjustment conferred by]~~ **to adjust under**
 123 subsection 1 of this section.

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

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

129 **(1) Included in a report, if any, sent to beneficiaries under subsection 3 of section**
 130 **456.8-813; or**

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

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

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

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

6 ~~[(1)]~~ **2.** A fiduciary of an estate or ~~[of a terminating]~~ trust with an income interest
 7 **that terminates** shall determine, **under subsection 7 of this section and sections 469.417 to**
 8 **469.462,** the amount of net income and net principal receipts received from property
 9 specifically given to a beneficiary ~~[pursuant to the rules in sections 469.417 to 469.461 which~~
 10 ~~apply to trustees and the rules in subdivision (5) of this section]~~. The fiduciary shall distribute
 11 the net income and net principal receipts to the beneficiary ~~[who]~~ **that** is to receive the
 12 specific property~~;~~.

13 ~~[(2)]~~ **3.** A fiduciary shall determine the ~~[remaining]~~ **income and** net income of ~~[a~~
 14 ~~decedent's]~~ **an** estate or ~~[a terminating]~~ income interest ~~[pursuant to the rules in]~~ **in a trust**

15 **that terminates, other than the amount of net income determined under subsection 2 of**
 16 **this section, under sections 469.417 to [469.461 which apply to trustees] 469.462 and by:**

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

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

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

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

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

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

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

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

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

49 **5. If a beneficiary is to receive a pecuniary amount outright from a trust after an**
 50 **income interest ends because of an income beneficiary's death, and no payment of interest**
 51 **or [other amount] the equivalent of interest is provided for by the terms of the trust or**

52 applicable law, the fiduciary shall ~~[distribute]~~ **pay** the interest or ~~[other amount]~~ **the**
 53 **equivalent of interest** to which the beneficiary would be entitled under applicable law if the
 54 pecuniary amount were required to be paid under a will[;].

55 ~~[(4)]~~ **6.** A fiduciary shall distribute ~~[the]~~ net income remaining after ~~[distributions]~~
 56 **payments** required by ~~[subdivision (3)]~~ **subsections 4 and 5** of this section in the manner
 57 described in section 469.415 to all other beneficiaries, including a beneficiary ~~[who]~~ **that**
 58 receives a pecuniary amount in trust, even if the beneficiary holds an unqualified power to
 59 withdraw assets from the trust or other presently exercisable general power of appointment
 60 over the trust[;].

61 ~~[(5)]~~ **7.** A fiduciary ~~[may]~~ **shall** not reduce principal or income receipts from
 62 property described in ~~[subdivision (1)]~~ **subsection 2** of this section because of a payment
 63 described in sections 469.451 and 469.453 to the extent ~~[that]~~ the **decedent's** will, the terms
 64 of the trust, or applicable law requires the fiduciary to make the payment from assets other
 65 than the property or to the extent ~~[that]~~ the fiduciary recovers or expects to recover the
 66 payment from a third party. The net income and principal receipts from the property ~~[are]~~
 67 **shall be** determined by including ~~[all of]~~ the amounts the fiduciary receives or pays ~~[with~~
 68 ~~respect to]~~ **regarding** the property, whether ~~[those amounts]~~ **the amount** accrued or became
 69 due before, on, or after the date of ~~[a]~~ **the** decedent's death or an income interest's terminating
 70 event, and ~~[by]~~ making a reasonable provision for ~~[amounts that the fiduciary believes]~~ **an**
 71 **amount** the estate or ~~[terminating]~~ income interest may become obligated to pay after the
 72 property is distributed.

469.415. 1. ~~[Each]~~ **Except to the extent sections 469.471 to 469.487 apply for a**
 2 beneficiary **that is a trust, each beneficiary** described in subdivision ~~[(4)]~~ **(6)** of section
 3 469.413 is entitled to receive a ~~[portion]~~ **share** of the net income equal to the beneficiary's
 4 fractional interest in undistributed principal assets, using values as of the distribution date. If
 5 a fiduciary makes more than one distribution of assets to beneficiaries to ~~[whom]~~ **which** this
 6 section applies, each beneficiary, including ~~[one who]~~ **a beneficiary that** does not receive
 7 part of the distribution, is entitled, as of each distribution date, to **a share of** the net income
 8 the fiduciary ~~[has]~~ received after the ~~[date of]~~ **decedent's** death ~~[or]~~, **an income interest's**
 9 **other** terminating event, or ~~[earlier]~~ **the preceding** distribution ~~[date but has not distributed~~
 10 ~~as of the current distribution date]~~ **by the fiduciary.**

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

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

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

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

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

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

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

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

28 ~~[(4)] (3) The distribution date [for purposes of this section]~~ **under subdivision (1) of**
 29 **this subsection** may be the date as of which the fiduciary calculates the value of the assets if
 30 that date is reasonably near the date on which **the** assets are ~~[actually]~~ distributed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 ~~[3-]~~ 4. **A receipt or disbursement is periodic under subsections 2 and 3 of this**
 18 **section if:**

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

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

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

25 6. Distributions to shareholders or other owners from an entity to which section
26 469.423 applies are ~~[deemed to be]~~ due:

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

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

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

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

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

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

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

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

20 ~~[3.]~~ 4. When a ~~[trustee's]~~ **fiduciary's** obligation to pay a fixed annuity or a fixed
21 fraction of the value of ~~[the trust's]~~ assets ends, the ~~[trustee]~~ **fiduciary** shall prorate the final
22 payment ~~[if and to the extent]~~ **as required** ~~[by applicable law to accomplish a purpose of the~~

23 ~~trust or its settlor relating]~~ to **preserve an income tax, gift tax, estate tax, or other tax**
 24 ~~[requirements]~~ **benefit.**

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

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

4 **(a) Return of capital; or**

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

6 **(2) "Entity" [means]:**

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

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

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

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

17 **c. An asset-backed security; or**

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

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

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

24 ~~[2.]~~ **3. Except as otherwise provided in [this section] subdivisions (2) to (4) of**
 25 **subsection 4 of this section, a [trustee] fiduciary shall allocate to income:**

26 **(1) Money received [from] in an entity[-**

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

28 ~~(1) Property other than money;~~

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

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

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

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

34 **4. A fiduciary shall allocate to principal:**

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

36 (a) Money; or

37 (b) Tangible personal property of nominal value;

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

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

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

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

47 ~~4. Money is received in partial liquidation:~~

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

50 ~~(2) If]; or~~

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

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

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

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

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

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

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

70 ~~6. A trustee may rely upon a statement made by an entity about the source or~~
71 ~~character of a distribution if the statement is made at or near the time of distribution by the~~
72 ~~entity's board of directors or other person or group of persons authorized to exercise powers to~~

73 ~~pay money or transfer property comparable to those of a corporation's board of directors.] fair~~
74 **market value of the fiduciary's interest in the entity; or**

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

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

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

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

83 **(a) The entity distribution; or**

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

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

89 **(a) The entity's operating income;**

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

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

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

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

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

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

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

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

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

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

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

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

110 **8. If a fiduciary receives additional information about the application of this**
 111 **section to an entity distribution before the fiduciary has paid part of the entity**
 112 **distribution to a beneficiary, the fiduciary may consider the additional information**
 113 **before making the payment to the beneficiary and may change a decision to make the**
 114 **payment to the beneficiary.**

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

469.425. A ~~trustee~~ **fiduciary** shall allocate to income an amount received as a
 2 distribution of income, **including a unitrust distribution under sections 469.471 to**
 3 **469.487**, from a trust or ~~an~~ estate in which the ~~trust~~ **fiduciary** has an interest, other than ~~a~~
 4 **an interest the fiduciary purchased [interest] in a trust that is an investment entity**, and
 5 shall allocate to principal an amount received as a distribution of principal from ~~such a~~ **the**
 6 trust or estate. If a ~~trustee~~ **fiduciary** purchases, **or receives from a settlor**, an interest in a
 7 trust that is an investment entity, ~~or a decedent or donor transfers an interest in such a trust to~~
 8 ~~a trustee,~~ section 469.423 ~~or~~, **469.446, or 469.449 [shall apply] applies** to a receipt from
 9 the trust.

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

5 **(1) Accounting for [it] the business or other activity as part of the [trust's]**
 6 **fiduciary's general accounting records[5]; or**

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

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

13 ~~[2.]~~ **3. A [trustee who] fiduciary that accounts separately under this section for a**
 14 **business or other activity:**

15 **(1) May determine:**

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

18 **a. Working capital[5];**

- 19 **b.** The acquisition or replacement of fixed assets~~[-]~~; and
- 20 **c.** Other reasonably foreseeable needs of the business or **other** activity~~[-]~~; and
- 21 **(b)** The extent to which the remaining net cash receipts are accounted for as principal
- 22 or income in the ~~[trust's]~~ **fiduciary's** general accounting records~~[- If a trustee sells assets of~~
- 23 ~~the business or other activity, other than in the ordinary course of the business or activity, the~~
- 24 ~~trustee] for the trust;~~
- 25 **(2)** May make a determination under subdivision (1) of this subsection
- 26 separately and differently from the fiduciary's decisions concerning distributions of
- 27 income or principal; and
- 28 **(3)** Shall account for the net amount received from the sale of an asset of the
- 29 business or other activity, other than a sale in the ordinary course of the business or
- 30 other activity, as principal in the ~~[trust's]~~ **fiduciary's** general accounting records for the
- 31 trust, to the extent the ~~[trustee]~~ **fiduciary** determines that the net amount received is no
- 32 longer required in the conduct of the business or other activity.
- 33 ~~[3-]~~ **4.** Activities for which a ~~[trustee may maintain separate accounting records]~~
- 34 **fiduciary may account separately under this section** include:
- 35 (1) Retail, manufacturing, service, and other traditional business activities;
- 36 (2) Farming;
- 37 (3) Raising and selling livestock and other animals;
- 38 (4) ~~[Management of]~~ **Managing** rental properties;
- 39 (5) ~~[Extraction of]~~ **Extracting** minerals, water, and other natural resources;
- 40 (6) **Growing and cutting** timber ~~[operations]; [and]~~
- 41 (7) ~~[Activities]~~ **An activity** to which section 469.446, 469.447, or 469.449 applies~~[-]~~;
- 42 **and**
- 43 **(8) Any other business conducted by the fiduciary.**
- 469.429. A ~~[trustee]~~ **fiduciary** shall allocate to principal:
- 2 (1) To the extent not allocated to income ~~[pursuant to]~~ **under** sections ~~[469.401]~~
- 3 **469.399 to [469.467] 469.487, [assets] an asset** received from ~~[a transferor]~~:
- 4 **(a) An individual** during the ~~[transferor's]~~ **individual's** lifetime~~[- a decedent's]~~;
- 5 **(b) An estate**~~[-]~~;
- 6 **(c) A trust** ~~[with a terminating]~~ **on termination of an** income interest~~[-]~~; or
- 7 **(d) A payer** under a contract naming the ~~[trust or its trustee]~~ **fiduciary** as beneficiary;
- 8 (2) **Except as otherwise provided in sections 469.423 to 469.449**, money or other
- 9 property received from the sale, exchange, liquidation, or change in form of a principal asset~~[-~~
- 10 ~~including realized profit, subject to sections 469.423 to 469.467];~~
- 11 (3) ~~[Amounts]~~ **An amount** recovered from a third ~~[parties]~~ **party** to reimburse the
- 12 ~~[trust]~~ **fiduciary** because of ~~[disbursements]~~ **a disbursement** described in ~~[subdivision (7) of]~~

13 subsection 1 of section 469.453 or for ~~[other reasons]~~ **another reason** to the extent not based
 14 on ~~[the]~~ loss of income;

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

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

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

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

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

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

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

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

8 ~~[2.]~~ **3. A [trustee] fiduciary** shall allocate to principal an amount received from the
 9 sale, redemption, or other disposition of an obligation to pay money to the ~~[trustee more than~~
 10 ~~one year after it is purchased or acquired by the trustee, including an obligation whose~~
 11 ~~purchase price or value when it is acquired is less than its value at maturity. If the obligation~~
 12 ~~matures within one year after it is purchased or acquired by the trustee, an amount received in~~
 13 ~~excess of its purchase price or its value when acquired by the trust shall be allocated to~~
 14 ~~income] fiduciary. A fiduciary shall allocate to income the increment in value of a bond~~
 15 **or other obligation for the payment of money bearing no stated interest but payable or**

16 **redeemable, at maturity or another future time, in an amount that exceeds the amount**
 17 **in consideration of which it was issued.**

18 ~~[3. This section does not apply to an obligation to which section 469.437, 469.439,~~
 19 ~~469.441, 469.443, 469.447 or 469.449 applies.]~~

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

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

10 ~~[2.]~~ **3.** A ~~[trustee]~~ **fiduciary** shall allocate to income proceeds of a contract that
 11 insures the ~~[trustee]~~ **fiduciary** against loss of:

12 (1) Occupancy or other use by ~~[an income beneficiary, loss of]~~ **a current income[-]**
 13 **beneficiary;**

14 (2) **Income;** or~~[-]~~

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

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

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

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

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

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

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

17 **(1) Exercised by a cofiduciary in the manner described in subsection 6 of section**
18 **469.405; or**

19 **(2) Released or delegated for a reason described in subsection 7 of section**
20 **469.405 and in the manner described in subsection 8 of section 469.405.**

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

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

3 ~~(a) Received or withdrawn from a plan; or~~

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

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

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

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

23 ~~4. For purposes of this section, if a payment is received from a plan that maintains a~~
24 ~~separate account or fund for its participants or account holders, including, but not limited to,~~
25 ~~defined contribution retirement plans, Individual Retirement Accounts, Roth Individual~~
26 ~~Retirement Accounts, and some types of deferred compensation plans, the phrase "plan~~
27 ~~income" shall mean either the amount of the plan account or fund held for the benefit of the~~
28 ~~trust that, if the plan account or fund were a trust, would be allocated to income pursuant to~~
29 ~~sections 469.401 to 469.467 for that accounting period, or four percent of the value of the~~
30 ~~plan account or fund on the first day of that accounting period. The method of determining~~
31 ~~plan income pursuant to this subsection shall be chosen by the trustee in the trustee's~~
32 ~~discretion. The trustees may change the method of determining plan income pursuant to this~~
33 ~~subsection for any future accounting period.~~

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

40 ~~6. Notwithstanding subsections 1 to 5 of this section, with respect to a trust where an~~
41 ~~election to qualify for a marital deduction under Section 2056(b)(7) or Section 2523(f) of the~~
42 ~~Internal Revenue Code of 1986, as amended, has been made, or a trust that qualified for the~~
43 ~~marital deduction under either Section 2056(b)(5) or Section 2523(e) of the Internal Revenue~~
44 ~~Code of 1986, as amended, a trustee shall determine the plan income for the accounting~~
45 ~~period as if the plan were a trust subject to sections 469.401 to 469.467. Upon request of the~~
46 ~~surviving spouse, the trustee shall demand that the person administering the plan distribute~~
47 ~~the plan income to the trust. The trustee shall allocate a payment from the plan to income to~~
48 ~~the extent of the plan income and distribute that amount to the surviving spouse. The trustee~~
49 ~~shall allocate the balance of the payment to principal. Upon request of the surviving spouse,~~
50 ~~the trustee shall allocate principal to income to the extent the plan income exceeds payments~~
51 ~~made from the plan to the trust during the accounting period.~~

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

56 **(2) "Marital trust", a trust:**

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

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

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

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

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

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

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

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

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

79 (3) If the fiduciary cannot determine the value of the separate fund under
80 subdivision (2) of this subsection, the value of the separate fund is deemed to equal the
81 present value of the expected future payments, as determined under 26 U.S.C. Section
82 7520, as amended, for the month preceding the beginning of the accounting period for
83 which the computation is made.

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

87 4. The fiduciary of a marital trust shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 4. If a ~~[trust]~~ **fiduciary** owns **or holds** an interest in minerals, water, or other natural
 36 resources ~~[on]~~ **before** August 28, ~~[2001]~~ **2025**, the ~~[trustee]~~ **fiduciary** may allocate receipts
 37 from the interest as provided in ~~[sections 469.401 to 469.467]~~ **this section** or in the manner
 38 used by the ~~[trustee]~~ **fiduciary** before August 28, ~~[2001]~~ **2025**. If the ~~[trust]~~ **fiduciary**
 39 acquires an interest in minerals, water, or other natural resources **on or** after August 28,
 40 ~~[2001]~~ **2025**, the ~~[trustee]~~ **fiduciary** shall allocate receipts from the interest as provided in
 41 ~~[sections 469.401 to 469.467]~~ **this section.**

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

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

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

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

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

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

20 3. ~~[Sections 469.401 to 469.467 apply]~~ **This section applies to land owned or held**
21 **by a fiduciary** whether or not a ~~[decedent or transferor]~~ **settlor** was ~~[harvesting]~~ **cutting**
22 timber from the **land before the fiduciary owned or held the property** ~~[before it became~~
23 ~~subject to the trust]~~.

24 4. If a ~~[trust]~~ **fiduciary** owns **or holds** an interest in ~~[timberland on]~~ **land used for**
25 **growing and cutting timber before** August 28, ~~[2001]~~ **2025**, the ~~[trustee]~~ **fiduciary** may
26 allocate net receipts from the sale of timber and related products as provided in ~~[sections~~
27 ~~469.401 to 469.467]~~ **this section** or in the manner used by the ~~[trustee]~~ **fiduciary** before
28 August 28, ~~[2001]~~ **2025**. If the ~~[trust]~~ **fiduciary** acquires an interest in ~~[timberland]~~ **land**
29 **used for growing and cutting timber on or after** August 28, ~~[2001]~~ **2025**, the ~~[trustee]~~
30 **fiduciary** shall allocate net receipts from the sale of timber and related products as provided
31 in ~~[sections 469.401 to 469.467]~~ **this section**.

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

10 (1) Make property productive of income~~];~~

11 (2) Convert property **to property productive of income** within a reasonable time~~];~~

12 or

13 (3) Exercise the power ~~[conferred by subsection 1 of]~~ **to adjust under** section
14 469.405.

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

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

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

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

11 2. To the extent [~~that a trustee~~] **a fiduciary** does not account [~~pursuant to section~~
 12 ~~469.427 for transactions~~] **for a transaction** in derivatives[~~, the trustee~~] **as a business under**
 13 **section 469.427, the fiduciary shall allocate [~~to principal~~] ten percent of receipts from the**
 14 **transaction and ten percent of disbursements made in connection with [~~those transactions~~]**
 15 **the transaction to income and the balance to principal.**

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

17 (1) A [~~trustee~~] **fiduciary:**

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

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

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

23 (2) The [~~trustee~~] **fiduciary** or other owner of the asset is required to deliver the asset
 24 if the option is exercised[~~;~~].

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

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

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

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

469.449. 1. [~~As used in this section, the phrase "asset-backed security" means an~~
 2 ~~asset whose value is based upon the right it gives the owner to receive distributions from the~~
 3 ~~proceeds of financial assets that provide collateral for the security. The phrase includes an~~
 4 ~~asset that gives the owner the right to receive from the collateral financial assets only the~~
 5 ~~interest or other current return or only the proceeds other than interest or current return. The~~
 6 ~~phrase does not include an asset to which section 469.423 or 469.437 applies.~~

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

13 ~~[3-] 2. If a [trust] fiduciary receives one or more payments in exchange for part or~~
 14 ~~all of the [trust's entire] fiduciary's interest in an asset-backed security [in one accounting~~
 15 ~~period, the trustee shall allocate the payments to principal. If a payment is one of a series of~~
 16 ~~payments that will result in the-], including a liquidation or redemption of the [trust's]~~
 17 ~~fiduciary's interest in the security [over more than one accounting period,] the [trustee]~~
 18 ~~fiduciary shall allocate [ten] to income ten percent of receipts from the [payment to~~
 19 ~~income] transaction and [the balance to principal] ten percent of disbursements made in~~
 20 ~~connection with the transaction, and to principal the balance of the receipts and~~
 21 ~~disbursements.~~

469.451. ~~[A trustee shall make the following disbursements from income to the extent~~
 2 ~~that they are not disbursements to which paragraph (b) or (c) of]~~ **Subject to section 469.456,**
 3 **and except as otherwise provided in subdivision (2) or (3) of subsection 3 of section**
 4 **469.413 [applies], a fiduciary shall disburse from income:**

5 (1) One-half of:

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

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

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

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

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

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

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

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

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

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

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

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

19 ~~[(6)]~~ (7) **A payment of an estate[-] or inheritance [and other transfer taxes] tax or**
20 **other tax imposed because of the death of a decedent,** including penalties, apportioned to
21 the trust; and

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

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

27 ~~(9) Disbursements]~~ (8) **A payment:**

28 (a) Related to environmental matters, including:

29 a. Reclamation[-];

30 b. Assessing environmental conditions[-];

31 c. Remediating and removing environmental contamination[-];

32 d. Monitoring remedial activities and the release of substances[-];

33 e. Preventing future releases of substances[-];

34 f. Collecting amounts from persons liable or potentially liable for the costs of ~~[these]~~
35 activities[-] **described in subparagraphs a. to e. of this paragraph;**

- 36 g. Penalties imposed under environmental laws or regulations ~~[and];~~
 37 h. Other ~~[payments made]~~ **actions** to comply with ~~[these]~~ **environmental** laws or
 38 regulations~~[-];~~
 39 i. Statutory or common law claims by third parties~~[-];~~ and
 40 j. Defending claims based on environmental matters~~[-];~~ **and**
 41 **(b) For a premium for insurance for matters described in paragraph (a) of this**
 42 **subdivision.**

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

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

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

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

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

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

12 (3) ~~[Pursuant to]~~ **Under** this section ~~[if the trustee is accounting pursuant to section~~
 13 ~~469.427]~~, **to the extent the fiduciary accounts:**

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

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

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

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

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

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

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

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

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

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

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

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

11 **~~[Disbursements] The cost of an improvement to principal, whether a change~~**
 12 **~~to an existing asset or the construction of a new asset, including a special assessment;~~**

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

15 ~~[(3)]~~ **(4) A periodic ~~[payments] payment~~** on an obligation secured by a principal
 16 asset, to the extent ~~[that]~~ the amount transferred from income to principal for depreciation is
 17 less than the periodic ~~[payments] payment~~; and

18 ~~[(4) Disbursements]~~ **(5) A disbursement** described in ~~[subdivision (7) of]~~ subsection
 19 1 of section 469.453.

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

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

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

6 3. **Subject to subsection 4 of this section and sections 469.456, 469.457, and**
7 **469.462**, a tax required to be paid by a ~~[trustee]~~ **fiduciary** on ~~[the trust's]~~ a share of an entity's
8 taxable income **in an accounting period** shall be paid from:

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

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

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

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

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

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

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

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

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

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

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

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

469.467. **The provisions of sections ~~[469.401]~~ 469.399 to ~~[469.467]~~ 469.487** apply to ~~[every]~~ a trust or ~~[decedent's]~~ estate existing **or created** on or after August 28, ~~[2001]~~ **2025**, except as otherwise expressly provided in the ~~[will or]~~ terms of the trust or ~~[in]~~ sections ~~[469.401]~~ **469.399** to ~~[469.467]~~ **469.487**.

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

- (1) "Applicable value", the amount of the net fair market value of a trust taken into account under section 469.483;**
- (2) "Express unitrust", a trust for which, under the terms of the trust without regard to sections 469.471 to 469.487, income or net income shall or may be calculated as a unitrust amount;**
- (3) "Income trust", a trust that is not a unitrust;**
- (4) "Net fair market value of a trust", the fair market value of the assets of the trust, less the noncontingent liabilities of the trust;**
- (5) "Unitrust", a trust for which net income is a unitrust amount. The term "unitrust" includes an express unitrust;**
- (6) "Unitrust amount", an amount computed by multiplying a determined value of a trust by a determined percentage. For a unitrust administered under a unitrust policy, the term "unitrust amount" means the applicable value multiplied by the unitrust rate;**
- (7) "Unitrust policy", a policy described in sections 469.479 to 469.487 and adopted under section 469.475;**
- (8) "Unitrust rate", the rate used to compute the unitrust amount for a unitrust administered under a unitrust policy.**

469.473. 1. Except as otherwise provided in subsection 2 of this section, sections 469.471 to 469.487 apply to:

3 **(1) An income trust, unless the terms of the trust expressly prohibit use of**
4 **sections 469.471 to 469.487 by a specific reference to these sections or an explicit**
5 **expression of intent that net income not be calculated as a unitrust amount; and**

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

7 **(a) Prohibit use of sections 469.471 to 469.487 by a specific reference to such**
8 **sections;**

9 **(b) Prohibit conversion to an income trust; or**

10 **(c) Limit changes to the method of calculating the unitrust amount.**

11 **2. Sections 469.471 to 469.487 do not apply to a trust described in 26 U.S.C.**
12 **Section 170(f)(2)(B), 642(c)(5), 664(d), 2702(a)(3)(A)(ii) or (iii), or 2702(b), as amended.**

13 **3. An income trust to which sections 469.471 to 469.487 apply under subdivision**
14 **(1) of subsection 1 of this section may be converted to a unitrust under sections 469.471**
15 **to 469.487 regardless of the terms of the trust concerning distributions. Conversion to a**
16 **unitrust under sections 469.471 to 469.487 does not affect other terms of the trust**
17 **concerning distributions of income or principal.**

18 **4. Sections 469.471 to 469.487 apply to an estate only to the extent a trust is a**
19 **beneficiary of the estate. To the extent of the trust's interest in the estate, the estate may**
20 **be administered as a unitrust, the administration of the estate as a unitrust may be**
21 **discontinued, or the percentage or method used to calculate the unitrust amount may be**
22 **changed, in the same manner as for a trust under sections 469.471 to 469.487.**

23 **5. Sections 469.471 to 469.487 do not create a duty to take or consider action**
24 **under sections 469.471 to 469.487 or to inform a beneficiary about the applicability of**
25 **sections 469.471 to 469.487.**

26 **6. A fiduciary that in good faith takes or fails to take an action under sections**
27 **469.471 to 469.487 is not liable to a person affected by the action or inaction.**

469.475. 1. A fiduciary, without court approval, by complying with subsections 2
2 **and 6 of this section, may:**

3 **(1) Convert an income trust to a unitrust if the fiduciary adopts in a record a**
4 **unitrust policy for the trust providing:**

5 **(a) That in administering the trust the net income of the trust will be a unitrust**
6 **amount rather than net income determined without regard to sections 469.471 to**
7 **469.487; and**

8 **(b) The percentage and method used to calculate the unitrust amount;**

9 **(2) Change the percentage or method used to calculate a unitrust amount for a**
10 **unitrust if the fiduciary adopts in a record a unitrust policy or an amendment or**
11 **replacement of a unitrust policy providing changes in the percentage or method used to**
12 **calculate the unitrust amount; or**

13 **(3) Convert a unitrust to an income trust if the fiduciary adopts in a record a**
14 **determination that, in administering the trust, the net income of the trust will be net**
15 **income determined without regard to sections 469.471 to 469.487 rather than a unitrust**
16 **amount.**

17 **2. A fiduciary may take an action under subsection 1 of this section if:**

18 **(1) The fiduciary determines that the action will assist the fiduciary to**
19 **administer a trust impartially;**

20 **(2) The fiduciary sends a notice in a record, in the manner required by section**
21 **469.477, describing and proposing to take the action;**

22 **(3) The fiduciary sends a copy of the notice under subdivision (2) of this**
23 **subsection to each settlor of the trust that is:**

24 **(a) If an individual, living; or**

25 **(b) If not an individual, in existence;**

26 **(4) At least one member of each class of the qualified beneficiaries described**
27 **under section 456.1-103 receiving the notice under subdivision (2) of this subsection is:**

28 **(a) If an individual, legally competent;**

29 **(b) If not an individual, in existence; or**

30 **(c) Represented in the manner provided in subsection 2 of section 469.477; and**

31 **(5) The fiduciary does not receive, by the date specified in the notice under**
32 **subdivision (5) of subsection 4 of section 469.477, an objection in a record to the action**
33 **proposed under subdivision (2) of this subsection from a person to which the notice**
34 **under subdivision (2) of this subsection is sent.**

35 **3. If a fiduciary receives, not later than the date stated in the notice under**
36 **subdivision (5) of subsection 4 of section 469.477, an objection in a record described in**
37 **subdivision (4) of subsection 4 of section 469.477 to a proposed action, the fiduciary or a**
38 **beneficiary may request the court to have the proposed action taken as proposed, taken**
39 **with modifications, or prevented. A person described in subsection 1 of section 469.477**
40 **may oppose the proposed action in the proceeding under this subsection, whether or not**
41 **the person:**

42 **(1) Consented under subsection 3 of section 469.477; or**

43 **(2) Objected under subdivision (4) of subsection 4 of section 469.477.**

44 **4. If, after sending a notice under subdivision (2) of subsection 2 of this section, a**
45 **fiduciary decides not to take the action proposed in the notice, the fiduciary shall notify**
46 **in a record each person described in subsection 1 of section 469.477 of the decision not to**
47 **take the action and the reasons for the decision.**

48 **5. If a beneficiary requests in a record that a fiduciary take an action described**
49 **in subsection 1 of this section and the fiduciary declines to act or does not act within**

50 ninety days after receiving the request, the beneficiary may request the court to direct
51 the fiduciary to take the action requested.

52 **6. In deciding whether and how to take an action authorized by subsection 1 of**
53 **this section, or whether and how to respond to a request by a beneficiary under**
54 **subsection 5 of this section, a fiduciary shall consider all factors relevant to the trust and**
55 **the beneficiaries, including relevant factors in subsection 5 of section 469.403.**

56 **7. A fiduciary may release or delegate the power to convert an income trust to a**
57 **unitrust under subdivision (1) of subsection 1 of this section, change the percentage or**
58 **method used to calculate a unitrust amount under subdivision (2) of subsection 1 of this**
59 **section, or convert a unitrust to an income trust under subdivision (3) of subsection 1 of**
60 **this section, for a reason described in subsection 7 of section 469.405 and in the manner**
61 **described in subsection 8 of section 469.405.**

469.477. 1. A notice required by subdivision (3) of subsection 2 of section
2 **469.475 shall be sent in a manner authorized under section 456.1-109 to:**

- 3 **(1) The qualified beneficiaries defined under section 456.1-103;**
4 **(2) Each person acting as trust protector under section 456.8-808; and**
5 **(3) Each person that is granted a power over the trust by the terms of the trust,**
6 **to the extent the power is exercisable when the person is not then serving as a trustee:**
7 **(a) Including a:**
8 **a. Power over the investment, management, or distribution of trust property or**
9 **other matters of trust administration; and**
10 **b. Power to appoint or remove a trustee or person described in this paragraph;**
11 **and**
12 **(b) Excluding a:**
13 **a. Power of appointment;**
14 **b. Power of a beneficiary over the trust, to the extent the exercise or nonexercise**
15 **of the power affects the beneficial interest of the beneficiary or another beneficiary**
16 **represented by the beneficiary under sections 456.3-301 to 456.3-305 with respect to the**
17 **exercise or nonexercise of the power; and**
18 **c. Power over the trust if the terms of the trust provide that the power is held in**
19 **a nonfiduciary capacity and the power shall be held in a nonfiduciary capacity to**
20 **achieve a tax objective under 26 U.S.C., as amended.**

21 **2. The representation provisions of sections 456.3-301 to 456.3-305 apply to**
22 **notice under this section.**

23 **3. A person may consent in a record at any time to action proposed under**
24 **subdivision (2) of subsection 2 of section 469.475. A notice required by subdivision (2) of**

25 subsection 2 of section 469.475 need not be sent to a person that consents under this
26 subsection.

27 4. A notice required by subdivision (2) of subsection 2 of section 469.475 shall
28 include:

29 (1) The action proposed under subdivision (2) of subsection 2 of section 469.475;

30 (2) For a conversion of an income trust to a unitrust, a copy of the unitrust policy
31 adopted under subdivision (1) of subsection 1 of section 469.475;

32 (3) For a change in the percentage or method used to calculate the unitrust
33 amount, a copy of the unitrust policy or amendment or replacement of the unitrust
34 policy adopted under subdivision (2) of subsection 1 of section 469.475;

35 (4) A statement that the person to which the notice is sent may object to the
36 proposed action by stating in a record the basis for the objection and sending or
37 delivering the record to the fiduciary;

38 (5) The date by which an objection under subdivision (4) of this subsection shall
39 be received by the fiduciary, which shall be at least thirty days after the date the notice is
40 sent;

41 (6) The date on which the action is proposed to be taken and the date on which
42 the action is proposed to take effect;

43 (7) The name and contact information of the fiduciary; and

44 (8) The name and contact information of a person that may be contacted for
45 additional information.

46 469.479. 1. In administering a unitrust under sections 469.471 to 469.487, a
2 fiduciary shall follow a unitrust policy adopted under subdivision (1) or (2) of subsection
3 1 of section 469.475 or amended or replaced under subdivision (2) of subsection 1 of
4 section 469.475.

5 2. A unitrust policy shall provide:

6 (1) The unitrust rate or the method for determining the unitrust rate under
7 section 469.481;

8 (2) The method for determining the applicable value under section 469.483; and

9 (3) The rules described in sections 469.481 to 469.487 that apply in the
10 administration of the unitrust, whether the rules are:

11 (a) Mandatory, as provided in subsection 1 of section 469.483 and subsection 1 of
12 section 469.485; or

13 (b) Optional, as provided in section 469.481, subsection 2 of section 469.483,
14 subsection 2 of section 469.485, and subsection 1 of section 469.487, to the extent the
15 fiduciary elects to adopt such rules.

2 **469.481. 1. Except as otherwise provided in subdivision (1) of subsection 2 of**
3 **section 469.487, a unitrust rate may be:**

4 **(1) A fixed unitrust rate; or**

5 **(2) A unitrust rate that is determined for each period using:**

6 **(a) A market index or other published data; or**

7 **(b) A mathematical blend of market indices or other published data over a**
8 **stated number of preceding periods.**

9 **2. Except as otherwise provided in subdivision (1) of subsection 2 of section**
10 **469.487, a unitrust policy may provide:**

11 **(1) A limit on how high the unitrust rate determined under subdivision (2) of**
12 **subsection 1 of this section may rise;**

13 **(2) A limit on how low the unitrust rate determined under subdivision (2) of**
14 **subsection 1 of this section may fall;**

15 **(3) A limit on how much the unitrust rate determined under subdivision (2) of**
16 **subsection 1 of this section may increase over the unitrust rate for the preceding period**
17 **or a mathematical blend of unitrust rates over a stated number of preceding periods;**

18 **(4) A limit on how much the unitrust rate determined under subdivision (2) of**
19 **subsection 1 of this section may decrease below the unitrust rate for the preceding**
20 **period or a mathematical blend of unitrust rates over a stated number of preceding**
21 **periods; or**

22 **(5) A mathematical blend of any of the unitrust rates determined under**
23 **subdivision (2) of subsection 1 of this section and subdivisions (1) to (4) of this**
24 **subsection.**

25 **469.483. 1. A unitrust policy shall provide the method for determining the fair**
26 **market value of an asset for the purpose of determining the unitrust amount, including:**

27 **(1) The frequency of valuing the asset, which need not require a valuation in**
28 **every period; and**

29 **(2) The date for valuing the asset in each period in which the asset is valued.**

30 **2. Except as otherwise provided in subdivision (2) of subsection 2 of section**
31 **469.487, a unitrust policy may provide methods for determining the amount of the net**
32 **fair market value of the trust to take into account in determining the applicable value,**
33 **including:**

34 **(1) Obtaining an appraisal of an asset for which fair market value is not readily**
35 **available;**

36 **(2) Exclusion of specific assets or groups or types of assets;**

37 **(3) Other exceptions or modifications of the treatment of specific assets or**
38 **groups or types of assets;**

- 15 **(4) Identification and treatment of cash or property held for distribution;**
16 **(5) Use of:**
17 **(a) An average of fair market values over a stated number of preceding periods;**
18 **or**
19 **(b) Another mathematical blend of fair market values over a stated number of**
20 **preceding periods;**
21 **(6) A limit on how much the applicable value of all assets, groups of assets, or**
22 **individual assets may increase over:**
23 **(a) The corresponding applicable value for the preceding period; or**
24 **(b) A mathematical blend of applicable values over a stated number of preceding**
25 **periods;**
26 **(7) A limit on how much the applicable value of all assets, groups of assets, or**
27 **individual assets may decrease below:**
28 **(a) The corresponding applicable value for the preceding period; or**
29 **(b) A mathematical blend of applicable values over a stated number of preceding**
30 **periods;**
31 **(8) The treatment of accrued income and other features of an asset that affect**
32 **value; and**
33 **(9) Determining the liabilities of the trust, including treatment of liabilities to**
34 **conform with the treatment of assets under subdivisions (1) to (8) of this subsection.**
- 469.485. 1. A unitrust policy shall provide the period used under sections**
2 **469.481 and 469.483. Except as otherwise provided in subdivision (3) of subsection 2 of**
3 **section 469.481, the period may be:**
4 **(1) A calendar year;**
5 **(2) A twelve-month period other than a calendar year;**
6 **(3) A calendar quarter;**
7 **(4) A three-month period other than a calendar quarter; or**
8 **(5) Another period.**
- 2. Except as otherwise provided in subsection 2 of section 469.487, a unitrust**
10 **policy may provide standards for:**
11 **(1) Using fewer preceding periods under paragraph (b) of subdivision (2) of**
12 **subsection 1 of section 469.481 or subdivision (3) or (4) of subsection 2 of section 469.481**
13 **if:**
14 **(a) The trust was not in existence in a preceding period; or**
15 **(b) Market indices or other published data are not available for a preceding**
16 **period;**

17 **(2) Using fewer preceding periods under paragraph (a) or (b) of subdivision (5)**
 18 **of subsection 2 of section 469.483, paragraph (b) of subdivision (6) of subsection 2 of**
 19 **section 469.483, or paragraph (b) of subdivision (7) of subsection 2 of section 469.483 if:**

20 **(a) The trust was not in existence in a preceding period; or**

21 **(b) Fair market values are not available for a preceding period; and**

22 **(3) Prorating the unitrust amount on a daily basis for a part of a period in which**
 23 **the trust or the administration of the trust as a unitrust or the interest of any beneficiary**
 24 **commences or terminates.**

469.487. 1. A unitrust policy may:

2 **(1) Provide methods and standards for:**

3 **(a) Determining the timing of distributions;**

4 **(b) Making distributions in cash or in kind or partly in cash and partly in kind;**

5 **or**

6 **(c) Correcting an underpayment or overpayment to a beneficiary based on the**
 7 **unitrust amount if there is an error in calculating the unitrust amount;**

8 **(2) Specify sources and the order of sources, including categories of income for**
 9 **federal income tax purposes, from which distributions of a unitrust amount are paid; or**

10 **(3) Provide other standards and rules the fiduciary determines serve the**
 11 **interests of the beneficiaries.**

12 **2. If a trust qualifies for a special tax benefit or a fiduciary is not an independent**
 13 **person:**

14 **(1) The unitrust rate established under section 469.481 shall not be less than**
 15 **three percent or more than five percent;**

16 **(2) The only provisions of section 469.483 that apply are subsection 1 of section**
 17 **469.483; subdivisions (1), (4), and (9) of subsection 2 of section 469.483; and paragraph**
 18 **(a) of subdivision (5) of subsection 2 of section 469.483;**

19 **(3) The only period that may be used under section 469.485 is a calendar year**
 20 **under subdivision (1) of subsection 1 of section 469.485; and**

21 **(4) The only other provisions of section 469.485 that apply are paragraph (a) of**
 22 **subdivision (2) of subsection 2 of section 469.485 and subdivision (3) of subsection 2 of**
 23 **section 469.485.**

474.540. The provisions of sections 474.540 to 474.564 shall be known and may
 2 **be cited as the "Missouri Electronic Wills and Electronic Estate Planning Documents**
 3 **Act".**

474.542. As used in sections 474.540 to 474.564, the following terms mean:

2 **(1) "Electronic", technology having electrical, digital, magnetic, wireless,**
 3 **optical, electromagnetic, or similar capabilities;**

4 (2) "Electronic presence", the relationship of two or more individuals in
5 different locations in real time using technology enabling live, interactive audio-visual
6 communication that allows for observation, direct interaction, and communication
7 between or among the individuals;

8 (3) "Electronic will", a will executed electronically in compliance with
9 subsection 1 of section 474.548;

10 (4) "Record", information that is inscribed on a tangible medium or that is
11 stored in an electronic or other medium and is retrievable in perceivable form;

12 (5) "Security procedure", a procedure to verify that an electronic signature,
13 record, or performance is that of a specific person or to detect a change or error in an
14 electronic record, including a procedure that uses an algorithm, code, identifying word
15 or number, encryption, or callback or other acknowledgment procedure;

16 (6) "Sign", with present intent to authenticate or adopt a record to:

17 (a) Execute or adopt a tangible symbol; or

18 (b) Affix to or logically associate with the record an electronic symbol or
19 process;

20 (7) "State", a state of the United States, the District of Columbia, Puerto Rico,
21 the United States Virgin Islands, a federally recognized Indian tribe, or any territory or
22 insular possession subject to the jurisdiction of the United States;

23 (8) "Will", a codicil and any testamentary instrument that appoints an executor,
24 revokes or revises another will, nominates a guardian, or expressly excludes or limits the
25 right of an individual or class to succeed to property of the decedent passing by intestate
26 succession.

 474.544. An electronic will shall be a will for all purposes of the laws of this state.
2 The provisions of law of this state applicable to wills and principles of equity shall apply
3 to an electronic will, except as modified by sections 474.540 to 474.564.

 474.546. A will executed electronically but not in compliance with subsection 1 of
2 section 474.548 shall be an electronic will under the provisions of sections 474.540 to
3 474.564 if executed in compliance with the law of the jurisdiction where the testator is:

4 (1) Physically located when the will is signed; or

5 (2) Domiciled, or where the testator resides, when the will is signed or when the
6 testator dies.

 474.548. 1. An electronic will shall be:

2 (1) A record that is readable as text at the time of signing as provided in
3 subdivision (2) of this subsection and remains accessible as text for later reference;

4 (2) Signed by:

5 (a) The testator; or

6 (b) Another individual in the testator's name, in the testator's physical presence,
7 and by the testator's direction; and

8 (3) Signed in the physical or electronic presence of the testator by at least two
9 individuals after witnessing:

10 (a) The signing of the will pursuant to subdivision (2) of this subsection; or

11 (b) The testator's acknowledgment of the signing of the will pursuant to
12 subdivision (2) of this subsection or acknowledgment of the will.

13 2. The intent of a testator that the record in subdivision (1) of subsection 1 of this
14 section be the testator's electronic will may be established by extrinsic evidence.

15 3. In accordance with the provisions of sections 474.337 or 474.550, a witness to a
16 will shall be a resident of a state and physically located in a state at the time of signing if
17 no self-proving affidavit is signed contemporaneously with the execution of the
18 electronic will.

474.550. At the time of its execution or at any subsequent date, an electronic will
2 may be made self-proved in the same manner as specified in section 474.337 or, if fewer
3 than two witnesses are physically present in the same location as the testator at the time
4 of such acknowledgments, before a remote online notary authorized to perform a
5 remote online notarization in this state under the law of any state or the United States,
6 and evidenced by a remote online notarial certificate, in form and content substantially
7 as follows, subject to the additional requirements under section 486.1165:

8 State of _____

9 County (and/or City) of _____

10 I, the undersigned notary, certify that _____, the testator, and the witnesses, whose
11 names are signed to the attached or foregoing instrument, having personally
12 appeared before me by remote online means, and having been first duly sworn,
13 each then declared to me that the testator signed and executed the instrument as the
14 testator's last will, and that the testator had willingly signed or willingly directed
15 another to sign for the testator, and that the testator executed it as the testator's free
16 and voluntary act for the purposes therein expressed; and that each of the
17 witnesses, in the presence and hearing of the testator, signed the will as witness and
18 that to the best of the witnesses' knowledge the testator was at that time eighteen or
19 more years of age, of sound mind, and under no constraint or undue influence.
20 In witness thereof I have hereunto subscribed my name and affixed my official seal
21 this _____ (date).

22 _____ (official signature and seal of notary)

474.552. 1. An electronic will may revoke all or part of a previous will.

2 2. All or part of an electronic will shall be revoked by:

3 (1) A subsequent will that revokes all or part of the electronic will expressly or
4 by inconsistency;

5 (2) A written instrument signed by the testator declaring the revocation; or

6 (3) A physical act, if it is established by a preponderance of the evidence that the
7 testator, with the intent of revoking all or part of the will, performed the act or directed
8 another individual who performed the act in the testator's physical presence.

9 3. If there is evidence that a testator signed an electronic will and neither the
10 electronic will nor a certified paper copy of the electronic will can be located after a
11 testator's death, there shall be a presumption that the testator revoked the electronic
12 will even if no instrument or later will revoking the electronic will can be located.

 474.554. Without further notice, at any time during the administration of the
2 estate or, if there is no grant of administration, upon such notice and in such manner as
3 the court directs, the court may issue an order pursuant to sections 472.400 to 472.490
4 for a custodian of an account held under a terms-of-service agreement to disclose digital
5 assets for the purposes of obtaining an electronic will from the account of a deceased
6 user. If there is no grant of administration at the time the court issues the order, the
7 court's order shall grant disclosure to the petitioner who is deemed a personal
8 representative under sections 472.400 to 472.490.

 474.556. 1. An individual may create a certified paper copy of an electronic will
2 by affirming under penalty of perjury that a paper copy of the electronic will is a
3 complete, true, and accurate copy of the electronic will. If the electronic will is made
4 self-proving, the certified paper copy of the will shall include a self-proving affidavit as
5 provided in sections 474.337 or 474.550.

6 2. If a provision of law or rule of procedure requires a will to be presented or
7 retained in its original form or provides consequences for the information not being
8 presented or retained in its original form, that provision or rule shall be satisfied by a
9 certified paper copy of an electronic will.

 474.558. In applying and construing the provisions of sections 474.540 to
2 474.564, consideration shall be given to the need to promote uniformity of the law with
3 respect to its subject matter among states that enact similar provisions.

 474.560. 1. Any written estate planning document may be executed
2 electronically, and no such estate planning document shall be invalid or void solely
3 because it is in electronic form or because it is signed electronically by a settlor, trustee,
4 principal, grantor, declarant, or owner, or by a witness to any such person's signature.
5 For purposes of this section, "estate planning document" shall include, but not be
6 limited to:

7 (1) A power of attorney or durable power of attorney;

- 8 **(2) A health care declaration;**
9 **(3) An advance directive;**
10 **(4) A power of attorney for health care or durable power of attorney for health**
11 **care;**
12 **(5) A revocable trust or amendment thereto, or modification or revocation**
13 **thereof;**
14 **(6) An irrevocable trust;**
15 **(7) A beneficiary deed;**
16 **(8) A nonprobate transfer; or**
17 **(9) A document modifying, amending, correcting, or revoking any written estate**
18 **planning document.**
- 19 **2. (1) An electronic estate planning document or an electronic signature on such**
20 **document shall be attributable to a person if it was the act of the person. The act of the**
21 **person may be shown in any manner, including a showing of the efficacy of a security**
22 **procedure applied to determine the person to which the electronic record or signature**
23 **was attributable.**
- 24 **(2) The effect of attribution of a document or signature to a person pursuant to**
25 **subdivision (1) of this subsection shall be determined from the context and surrounding**
26 **circumstances at the time of its creation, execution, or adoption and as provided by**
27 **other provisions of law.**
- 28 **3. (1) Unless otherwise provided under its terms, any electronic estate planning**
29 **document may be signed in one or more counterparts, and each separate counterpart**
30 **may be an electronic document or a paper document, provided that all signed**
31 **counterpart pages of each document are incorporated into, or attached to, the**
32 **document.**
- 33 **(2) An individual may create a certified paper copy of any such electronic estate**
34 **planning document by affirming under penalty of perjury that a paper copy of the**
35 **electronic estate planning document is a complete, true, and accurate copy of such**
36 **document. If a provision of law or a rule of procedure requires an estate planning**
37 **document to be presented or retained in its original form or provides consequences for**
38 **the information not being presented or retained in its original form, such provision or**
39 **rule shall be satisfied by a certified paper copy of an electronic document.**
- 40 **4. Any written estate planning document, other than a will, that requires one or**
41 **more witnesses to the signature of a principal may be witnessed by any individual or**
42 **individuals in the electronic presence of the principal.**
- 43 **5. A person who acts in reliance upon an electronically executed written estate**
44 **planning document shall not be liable to any person for so relying and may assume**

45 without inquiry the valid execution of the electronically executed written estate planning
46 document.

47 6. This section does not require a written estate planning document to be
48 electronically signed.

49 7. The laws of this state and principles of equity applicable to any estate
50 planning document shall apply to any electronic estate planning document except as
51 modified by this section.

474.562. The provisions of sections 474.540 to 474.564 modify, limit, and
2 supersede the federal Electronic Signatures in Global and National Commerce Act, 15
3 U.S.C. Section 7001 et seq., but do not modify, limit, or supersede Section 101(c) of that
4 act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices
5 described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

474.564. The provisions of sections 474.540 to 474.564 shall apply to any will of a
2 decedent who dies on or after August 28, 2025, and to any other written estate planning
3 document, as the term "estate planning document" is defined in section 474.560, signed
4 or remotely witnessed on or after August 28, 2025.

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

2 (1) "Applicable state of emergency", the period between April 6, 2020, and
3 December 31, 2021, during which a state of emergency existed due to a COVID-19
4 public health threat, as proclaimed by the governor, and during which executive orders
5 20-08, 20-10, 20-12, 20-14, 20-19, 21-07, and 21-09 temporarily suspended the physical
6 appearance requirements in this chapter and authorized the use of audio-visual
7 technology to the extent that any Missouri statute required the physical presence of any
8 testator, settlor, principal, witness, notary, or other person necessary for the effective
9 execution of any estate planning document such as a will, trust, or power of attorney, or
10 a self-proving affidavit of the execution of such document, if the conditions set forth in
11 the executive orders were met;

(2) "Estate planning document", includes, but is not limited to:

- 12 (a) A will;
13 (b) A codicil;
14 (c) A power of attorney or durable power of attorney;
15 (d) A health care declaration;
16 (e) An advance directive;
17 (f) A power of attorney for health care or a durable power of attorney for health
18 care;
19 (g) A revocable trust or amendment thereto, or modification or revocation
20 thereof;
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- 22 (h) An irrevocable trust;
- 23 (i) A beneficiary deed;
- 24 (j) A nonprobate transfer; or
- 25 (k) A document modifying, amending, correcting, or revoking any written estate
- 26 planning document;

27 (3) "Necessary person", any testator, settlor, grantor, principal, declarant,

28 witness, notary, or other person required for the effective execution of any estate

29 planning document in this state;

30 (4) "Physical presence requirement", includes, but is not limited to, any

31 requirement of physical presence under section 404.705, 459.015, 474.320, or 474.337 or

32 chapter 486.

33 2. With respect to the execution of an estate planning document, a necessary

34 person shall be deemed to have satisfied any physical presence requirement under

35 Missouri law during the applicable state of emergency if the following requirements

36 were met:

37 (1) The signer affirmatively represented that the signer was physically situated

38 in the state of Missouri;

39 (2) The notary was physically located in the state of Missouri and stated in which

40 county the notary was physically located for the jurisdiction on the acknowledgment;

41 (3) The notary identified the signers to the satisfaction of the notary and

42 Missouri law;

43 (4) Any person whose signature was required appeared using video conference

44 software where live, interactive audio-visual communication between the principal,

45 notary, and any other necessary person allowed for observation, direct interaction, and

46 communication at the time of signing; and

47 (5) The notary recorded in the notary's journal the exact time and means used to

48 perform the notarial act, along with all other required information, absent the wet

49 signatures.

50 3. The requirements of subdivisions (1) to (5) of subsection 2 of this section shall

51 be deemed satisfied if an attorney who is licensed or authorized to practice law in

52 Missouri and who was present at the remote execution signs a written acknowledgment

53 made before an officer authorized to administer oaths under the laws of this state, and

54 evidenced by the officer's certificate, under official seal, affixed to or logically associated

55 with the acknowledgment. The form and content of the acknowledgment shall be

56 substantially as follows:

57 State of _____

58 County of _____

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AFFIDAVIT OF REMOTE EXECUTION OF DOCUMENTS

I, _____, am an attorney licensed or authorized to practice law in the state of Missouri.

On ____ (date), I convened with the following individuals via video conference software that allowed for live, interactive audio-visual communication between the parties to the conference and that also allowed for observation, direction, interaction, and communication between:

_____, the (testator, settlor, grantor, principal, or declarant);

_____, a witness;

_____, a second witness; and

_____, a notary public.

During the conference, _____, the (testator, settlor, grantor, principal, or declarant) signed the following estate planning document or documents: (a will, codicil, power of attorney, durable power of attorney, health care declaration, advance directive, health care power of attorney, revocable trust, irrevocable trust, beneficiary deed, nonprobate transfer, self-proving affidavit of the execution of a will, or a document modifying, amending, correcting, or revoking one of these estate planning documents).

All the parties to the conference represented that they were physically located in the state of Missouri at the time of the signing.

I have reviewed and am familiar with the requirements of the applicable executive order or orders in effect at the time and affirm that the remote execution of the estate planning document or documents met all the requirements of the applicable executive order or orders.

In witness whereof I, an officer authorized to administer oaths, have hereunto subscribed my name and affixed my official seal this _____ (date).

(Signed) _____

(SEAL) _____

(Official capacity of officer)

476.1025. A parent, spouse, child, or personal representative of a person who was convicted of a misdemeanor offense may file a motion with the court in which the person was convicted to have the record of such offense made confidential in any automated case management system if such person has been deceased for six months or

5 **more. Upon such motion accompanied by a copy of the death certificate of the deceased**
6 **person, the court shall make the case confidential. Prior to making the case**
7 **confidential, the court shall determine whether any person would be unfairly prejudiced**
8 **by making such record confidential in any automated case management system.**

477.650. 1. There is hereby created in the state treasury the "Basic Civil Legal
2 Services Fund", to be administered by, or under the direction of, the Missouri supreme court.
3 All moneys collected under section 488.031 shall be credited to the fund. In addition to the
4 court filing surcharges, funds from other public or private sources also may be deposited into
5 the fund and all earnings of the fund shall be credited to the fund. The purpose of this section
6 is to increase the funding available for basic civil legal services to eligible low-income
7 persons as such persons are defined by the Federal Legal Services Corporation's Income
8 Eligibility Guidelines.

9 2. Funds in the basic civil legal services fund shall be allocated annually and
10 expended to provide legal representation to eligible low-income persons in the state in civil
11 matters. Moneys, funds, or payments paid to the credit of the basic civil legal services fund
12 shall, at least as often as annually, be distributed to the legal services organizations in this
13 state which qualify for Federal Legal Services Corporation funding. The funds so distributed
14 shall be used by legal services organizations in this state solely to provide legal services to
15 eligible low-income persons as such persons are defined by the Federal Legal Services
16 Corporation's Income Eligibility Guidelines. Fund money shall be subject to all restrictions
17 imposed on such legal services organizations by law. Funds shall be allocated to the
18 programs according to the funding formula employed by the Federal Legal Services
19 Corporation for the distribution of funds to this state. Notwithstanding the provisions of
20 section 33.080, any balance remaining in the basic civil legal services fund at the end of any
21 year shall not be transferred to the state's general revenue fund. Moneys in the basic civil
22 legal services fund shall not be used to pay any portion of a refund mandated by Article X,
23 Section ~~[45]~~ 18 of the Missouri Constitution. State legal services programs shall represent
24 individuals to secure lawful state benefits, but shall not sue the state, its agencies, or its
25 officials, with any state funds.

26 3. Contracts for services with state legal services programs shall provide eligible low-
27 income Missouri citizens with equal access to the civil justice system, with a high priority on
28 families and children, domestic violence, the elderly, and qualification for benefits under the
29 Social Security Act. State legal services programs shall abide by all restrictions,
30 requirements, and regulations of the Legal Services Corporation regarding their cases.

31 4. The Missouri supreme court, or a person or organization designated by the court, is
32 the administrator and shall administer the fund in such manner as determined by the Missouri
33 supreme court, including in accordance with any rules and policies adopted by the Missouri

34 supreme court for such purpose. Moneys from the fund shall be used to pay for the collection
35 of the fee and the implementation and administration of the fund.

36 5. Each recipient of funds from the basic civil legal services fund shall maintain
37 appropriate records accounting for the receipt and expenditure of all funds distributed and
38 received pursuant to this section. These records must be maintained for a period of five years
39 from the close of the fiscal year in which such funds are distributed or received or until
40 audited, whichever is sooner. All funds distributed or received pursuant to this section are
41 subject to audit by the Missouri supreme court or the state auditor.

42 6. The Missouri supreme court, or a person or organization designated by the court,
43 shall, by January thirty-first of each year, report to the general assembly on the moneys
44 collected and disbursed pursuant to this section and section 488.031 by judicial circuit.

45 ~~[7. The provisions of this section shall expire on December 31, 2025.]~~

478.001. 1. For purposes of sections 478.001 to 478.009, the following terms shall
2 mean:

3 (1) "Adult treatment court", a treatment court focused on addressing the substance use
4 disorder or co-occurring disorder of defendants charged with a criminal offense;

5 (2) "Community-based substance use disorder treatment program", an agency
6 certified by the department of mental health as a substance use disorder treatment provider;

7 (3) "Co-occurring disorder", the coexistence of both a substance use disorder and a
8 mental health disorder;

9 (4) "DWI court", a treatment court focused on addressing the substance use disorder
10 or co-occurring disorder of defendants who have pleaded guilty to or been found guilty of
11 driving while intoxicated or driving with excessive blood alcohol content;

12 (5) "Family treatment court", a treatment court focused on addressing a substance use
13 disorder or co-occurring disorder existing in families in the juvenile court, family court, or
14 criminal court in which a parent or other household member has been determined to have a
15 substance use disorder or co-occurring disorder that impacts the safety and well-being of the
16 children in the family;

17 (6) "Juvenile treatment court", a treatment court focused on addressing the substance
18 use disorder or co-occurring disorder of juveniles in the juvenile court;

19 (7) "Medication-assisted treatment", the use of pharmacological medications, in
20 combination with counseling and behavioral therapies, to provide a whole-patient approach to
21 the treatment of substance use disorders;

22 (8) "Mental health disorder", any organic, mental, or emotional impairment that has
23 substantial adverse effects on a person's cognitive, volitional, or emotional function and that
24 constitutes a substantial impairment in a person's ability to participate in activities of normal
25 living;

26 (9) "**Mental health treatment court**", a treatment court focused on addressing
27 the mental health disorder or co-occurring disorder of defendants charged with a
28 criminal offense;

29 (10) "Risk and needs assessment", an actuarial tool, approved by the treatment courts
30 coordinating commission and validated on a targeted population of drug-involved adult
31 offenders, scientifically proven to determine a person's risk to recidivate and to identify
32 criminal risk factors that, when properly addressed, can reduce that person's likelihood of
33 committing future criminal behavior;

34 ~~[(10)]~~ (11) "Substance use disorder", the recurrent use of alcohol or drugs that causes
35 clinically significant impairment, including health problems, disability, and failure to meet
36 major responsibilities at work, school, or home;

37 ~~[(11)]~~ (12) "Treatment court commissioner", a person appointed by a majority of the
38 circuit and associate circuit judges in a circuit to preside as the judicial officer in the treatment
39 court division;

40 ~~[(12)]~~ (13) "Treatment court division", a specialized, nonadversarial court division
41 with jurisdiction over cases involving substance-involved offenders and making extensive use
42 of comprehensive supervision, drug or alcohol testing, and treatment services. Treatment
43 court divisions include, but are not limited to, the following specialized courts: adult
44 treatment court, DWI court, family treatment court, juvenile treatment court, **mental health**
45 **treatment court**, veterans treatment court, or any combination thereof;

46 ~~[(13)]~~ (14) "Treatment court team", the following members who are assigned to the
47 treatment court: the judge or treatment court commissioner, treatment court administrator or
48 coordinator, prosecutor, public defender or member of the criminal defense bar, a
49 representative from the division of probation and parole, a representative from law
50 enforcement, substance use disorder **or mental health disorder** treatment providers, and any
51 other person selected by the treatment court team;

52 ~~[(14)]~~ (15) "Veterans treatment court", a treatment court focused on substance use
53 disorders, co-occurring disorders, or mental health disorders of defendants charged with a
54 criminal offense who are military veterans or current military personnel.

55 2. A treatment court division shall be established, prior to August 28, 2021, by any
56 circuit court pursuant to sections 478.001 to 478.009 to provide an alternative for the judicial
57 system to dispose of cases which stem from, or are otherwise impacted by, a substance use
58 **disorder or mental health disorder**. The treatment court division may include, but not be
59 limited to, cases assigned to an adult treatment court, DWI court, family treatment court,
60 juvenile treatment court, **mental health treatment court**, veterans treatment court, or any
61 combination thereof. A treatment court shall combine judicial supervision, drug or alcohol
62 testing, and treatment of participants. Except for good cause found by the court, a treatment

63 court making a referral for substance use disorder **or mental health disorder** treatment, when
64 such program will receive state or federal funds in connection with such referral, shall refer
65 the person only to a program which is certified by the department of mental health, unless no
66 appropriate certified treatment program is located within the same county as the treatment
67 court. Upon successful completion of the treatment court program, the charges, petition, or
68 penalty against a treatment court participant may be dismissed, reduced, or modified, unless
69 otherwise stated. **Except for those costs waived pursuant to section 488.016**, any fees
70 received by a court from a defendant as payment for substance **or mental health** treatment
71 programs shall not be considered court costs, charges or fines.

72 3. An adult treatment court may be established by any circuit court [~~under sections~~
73 ~~478.001 to 478.009~~] to provide an alternative for the judicial system to dispose of cases which
74 stem from substance use.

75 4. [~~Under sections 478.001 to 478.009;~~] A DWI court may be established by any
76 circuit court to provide an alternative for the judicial system to dispose of cases that stem
77 from driving while intoxicated.

78 5. A family treatment court may be established by any circuit court. The juvenile
79 division of the circuit court or the family court, if one is established under section 487.010,
80 may refer one or more parents or other household members subject to its jurisdiction to the
81 family treatment court if he or she has been determined to have a substance use disorder or
82 co-occurring disorder that impacts the safety and well-being of the children in the family.

83 6. A juvenile treatment court may be established by the juvenile division of any
84 circuit court. The juvenile division may refer a juvenile to the juvenile treatment court if the
85 juvenile is determined to have committed acts that violate the criminal laws of the state or
86 ordinances of a municipality or county and a substance use disorder or co-occurring disorder
87 contributed to the commission of the offense.

88 7. The general assembly finds and declares that it is the public policy of this state to
89 encourage and provide an alternative method for the disposal of cases for military veterans
90 and current military personnel with substance use disorders, mental health disorders, or co-
91 occurring disorders. In order to effectuate this public policy, a veterans treatment court may
92 be established by any circuit court, or combination of circuit courts upon agreement of the
93 presiding judges of such circuit courts, to provide an alternative for the judicial system to
94 dispose of cases that stem from a substance use disorder, mental health disorder, or co-
95 occurring disorder of military veterans or current military personnel. A veterans treatment
96 court shall combine judicial supervision, drug or alcohol testing, and substance use and
97 mental health disorder treatment to participants who have served or are currently serving the
98 United States Armed Forces, including members of the Reserves or National Guard, with
99 preference given to individuals who have combat service. For the purposes of this section,

100 combat service shall be shown through military service documentation that reflects service in
 101 a combat theater, receipt of combat service medals, or receipt of imminent danger or hostile
 102 fire pay or tax benefits. Except for good cause found by the court, a veterans treatment court
 103 shall make a referral for substance use or mental health disorder treatment, or a combination
 104 of substance use and mental health disorder treatment, through the Department of Defense
 105 health care, the Veterans Administration, or a community-based substance use disorder
 106 treatment program. Community-based programs utilized shall receive state or federal funds
 107 in connection with such referral and shall only refer the individual to a program certified by
 108 the department of mental health, unless no appropriate certified treatment program is located
 109 within the same circuit as the veterans treatment court.

110 **8. A mental health treatment court may be established by any circuit court to**
 111 **provide an alternative for the judicial system to dispose of cases that stem from a mental**
 112 **health disorder or co-occurring disorder.**

487.110. The uniform child custody jurisdiction **and enforcement** act, as enacted in
 2 sections [~~452.440 to 452.550~~] **452.700 to 452.930**, shall apply to all **child** custody
 3 proceedings, **as defined in section 452.705**, in the family court.

488.040. [~~1-~~] Each grand and petit juror shall~~], pursuant to the provisions of section~~
 2 ~~494.455, receive six dollars per day for every day he or she may actually serve as such and~~
 3 ~~seven cents for every mile he or she may necessarily travel going from his or her place of~~
 4 ~~residence to the courthouse and returning, to be paid from funds of the county or a city not~~
 5 ~~within a county.~~

6 ~~2. Provided that a county or a city not within a county authorizes daily compensation~~
 7 ~~payable from county or city funds for jurors who serve in that county pursuant to subsection 3~~
 8 ~~of this section in the amount of at least six dollars per day in addition to the amount required~~
 9 ~~by subsection 1 of this section, a person shall receive an additional six dollars per day,~~
 10 ~~pursuant to the provisions of section 494.455, to be reimbursed by the state of Missouri so~~
 11 ~~that the total compensation payable shall be at least eighteen dollars, plus mileage as~~
 12 ~~indicated in subsection 1 of this section, for each day that the person actually serves as a petit~~
 13 ~~juror in a particular case; or for each day that a person actually serves as a grand juror during~~
 14 ~~a term of a grand jury. The state shall reimburse the county for six dollars of the additional~~
 15 ~~juror compensation provided by this subsection.~~

16 ~~3. The governing body of each county or a city not within a county may authorize~~
 17 ~~additional daily compensation and mileage allowance for jurors, which additional~~
 18 ~~compensation shall be paid from the funds of the county or a city not within a county.~~
 19 ~~The governing body of each county or a city not within a county may authorize additional~~
 20 ~~daily compensation and mileage allowance for jurors attending a coroner's inquest. Jurors~~
 21 ~~may receive the additional compensation and mileage allowance authorized by this subsection~~

22 ~~only if the governing body of the county or the city not within a county authorizes the~~
 23 ~~additional compensation. The provisions of this subsection authorizing additional~~
 24 ~~compensation shall terminate upon the issuance of a mandate by the Missouri supreme~~
 25 ~~court which results in the state of Missouri being obligated or required to pay any such~~
 26 ~~additional compensation even if such additional compensation is formally approved or~~
 27 ~~authorized by the governing body of a county or a city not within a county.~~

28 ~~4. When each panel of jurors summoned and attending court has completed its~~
 29 ~~service, the board of jury commissioners shall cause to be submitted to the governing body of~~
 30 ~~the county or a city not within a county a statement of fees earned by each juror. Within thirty~~
 31 ~~days of the submission of the statement of fees, the governing body shall cause payment to be~~
 32 ~~made to those jurors summoned the fees earned during their service as jurors] receive daily~~
 33 **compensation and mileage allowance in the amount provided by law pursuant to section**
 34 **494.455.**

488.426. 1. The judges of the circuit court, en banc, in any circuit in this state may
 2 require any party filing a civil case in the circuit court, at the time of filing the suit, to deposit
 3 with the clerk of the court a surcharge in addition to all other deposits required by law or court
 4 rule. Sections 488.426 to 488.432 shall not apply to proceedings when costs are waived or
 5 are to be paid by the county or state or any city.

6 2. The surcharge in effect on August 28, 2001, shall remain in effect until changed by
 7 the circuit court. The circuit court in any circuit, except the circuit court in Jackson County,
 8 **the circuit court in the city of St. Louis**, or the circuit court in any circuit that reimburses the
 9 state for the salaries of family court commissioners under and pursuant to section 487.020,
 10 may change the fee to any amount not to exceed fifteen dollars. The circuit court in Jackson
 11 County, **the circuit court in the city of St. Louis**, or the circuit court in any circuit that
 12 reimburses the state for the salaries of family court commissioners under and pursuant to
 13 section 487.020 may change the fee to any amount not to exceed twenty dollars. A change in
 14 the fee shall become effective and remain in effect until further changed.

15 3. Sections 488.426 to 488.432 shall not apply to proceedings when costs are waived
 16 or are paid by the county or state or any city.

17 ~~[4. In addition to any fee authorized by subsection 1 of this section, any county of the~~
 18 ~~first classification with more than one hundred one thousand but fewer than one hundred~~
 19 ~~fifteen thousand inhabitants may impose an additional fee of ten dollars excluding cases~~
 20 ~~concerning adoption and those in small claims court. The provisions of this subsection shall~~
 21 ~~expire on December 31, 2019.]~~

491.075. 1. A statement made by a child under the age of ~~[fourteen]~~ **eighteen**, or a
 2 vulnerable person, relating to an offense under chapter 565, 566, 568 or 573, performed by
 3 another, not otherwise admissible by statute or court rule, is admissible in evidence in

4 criminal proceedings in the courts of this state as substantive evidence to prove the truth of
5 the matter asserted if:

6 (1) The court finds, in a hearing conducted outside the presence of the jury that the
7 time, content and circumstances of the statement provide sufficient indicia of reliability; and

8 (2) (a) The child or vulnerable person testifies at the proceedings; or

9 (b) The child or vulnerable person is unavailable as a witness; or

10 (c) The child or vulnerable person is otherwise physically available as a witness but
11 the court finds that the significant emotional or psychological trauma which would result
12 from testifying in the personal presence of the defendant makes the child or vulnerable person
13 unavailable as a witness at the time of the criminal proceeding.

14 2. Notwithstanding subsection 1 of this section or any provision of law or rule of
15 evidence requiring corroboration of statements, admissions or confessions of the defendant,
16 and notwithstanding any prohibition of hearsay evidence, a statement by a child when under
17 the age of ~~fourteen~~ **eighteen**, or a vulnerable person, who is alleged to be victim of an
18 offense under chapter 565, 566, 568 or 573 is sufficient corroboration of a statement,
19 admission or confession regardless of whether or not the child or vulnerable person is
20 available to testify regarding the offense.

21 3. A statement may not be admitted under this section unless the prosecuting attorney
22 makes known to the accused or the accused's counsel his or her intention to offer the
23 statement and the particulars of the statement sufficiently in advance of the proceedings to
24 provide the accused or the accused's counsel with a fair opportunity to prepare to meet the
25 statement.

26 4. Nothing in this section shall be construed to limit the admissibility of statements,
27 admissions or confessions otherwise admissible by law.

28 5. For the purposes of this section, "vulnerable person" shall mean a person who, as a
29 result of an inadequately developed or impaired intelligence or a psychiatric disorder that
30 materially affects ability to function, lacks the mental capacity to consent, or whose
31 developmental level does not exceed that of an ordinary child of ~~fourteen~~ **seventeen** years
32 of age.

492.304. 1. In addition to the admissibility of a statement under the provisions of
2 section 492.303, the visual and aural recording of a verbal or nonverbal statement of a child
3 when under the age of ~~fourteen who is alleged to be a victim of~~ **eighteen or a vulnerable**
4 **person, relating to** an offense under the provisions of chapter 565, 566 ~~or~~, 568, **or 573, if**
5 **performed by another**, is admissible into evidence if:

6 (1) No attorney for either party was present when the statement was made; except
7 that, for any statement taken at a state-funded child assessment center as provided for in
8 subsection 2 of section 210.001, an attorney representing the state of Missouri in a criminal

9 investigation may, as a member of a multidisciplinary investigation team, observe the taking
10 of such statement, but such attorney shall not be present in the room where the interview is
11 being conducted;

12 (2) The recording is both visual and aural and is recorded on film or videotape or by
13 other electronic means;

14 (3) The recording equipment was capable of making an accurate recording, the
15 operator of the equipment was competent, and the recording is accurate and has not been
16 altered;

17 (4) The statement was not made in response to questioning calculated to lead the child
18 **or vulnerable person** to make a particular statement or to act in a particular way;

19 (5) Every voice on the recording is identified;

20 (6) The person conducting the interview of the child **or vulnerable person** in the
21 recording is present at the proceeding and available to testify or be cross-examined by either
22 party; and

23 (7) The defendant or the attorney for the defendant is afforded an opportunity to view
24 the recording before it is offered into evidence.

25 2. If the child **or vulnerable person** does not testify at the proceeding, the visual and
26 aural recording of a verbal or nonverbal statement of the child **or vulnerable person** shall not
27 be admissible under this section unless the recording qualifies for admission under section
28 491.075.

29 3. If the visual and aural recording of a verbal or nonverbal statement of a child **or**
30 **vulnerable person** is admissible under this section and the child **or vulnerable person**
31 testifies at the proceeding, it shall be admissible in addition to the testimony of the child **or**
32 **vulnerable person** at the proceeding whether or not it repeats or duplicates the child's **or**
33 **vulnerable person's** testimony.

34 4. As used in this section, a nonverbal statement shall be defined as any
35 demonstration of the child **or vulnerable person** by his or her actions, facial expressions,
36 demonstrations with a doll or other visual aid whether or not this demonstration is
37 accompanied by words.

38 5. For the purposes of this section, "vulnerable person" shall mean a person
39 who, as a result of an inadequately developed or impaired intelligence or a psychiatric
40 disorder that materially affects the ability to function, lacks the mental capacity to
41 consent, or whose developmental level does not exceed that of an ordinary child of
42 seventeen years of age.

494.455. 1. ~~Each county or city not within a county may elect to compensate its~~
2 ~~jurors pursuant to subsection 2 of this section except as otherwise provided in subsection 3 of~~
3 ~~this section.~~

4 2.] Each grand and petit juror shall receive a **minimum of** six dollars per day, for
5 every day ~~[he or she]~~ **the juror** may actually serve as ~~[such]~~ **a juror**, and ~~[seven cents]~~ **the**
6 **mileage rate as provided by section 33.095 for state employees** for every mile ~~[he or she]~~
7 **the juror** may necessarily travel going from ~~[his or her]~~ **the juror's** place of residence to the
8 courthouse and returning, to be paid from funds of the county or a city not within a county.
9 **Each county or city not within a county may elect to compensate its jurors pursuant to**
10 **subsection 2 of this section, except as otherwise provided in subsection 3 of this section.**

11 2. The governing body of each county or a city not within a county may authorize
12 additional daily compensation and mileage allowance for jurors, which additional
13 compensation shall be paid from the funds of the county or a city not within a county.
14 The governing body of each county or a city not within a county may authorize additional
15 daily compensation and mileage allowance for jurors attending a coroner's inquest. Jurors
16 may receive the additional compensation and mileage allowance authorized by this subsection
17 only if the governing body of the county or the city not within a county authorizes the
18 additional compensation. The provisions of this subsection authorizing additional
19 compensation shall terminate upon the issuance of a mandate by the Missouri supreme
20 court which results in the state of Missouri being obligated or required to pay any such
21 additional compensation even if such additional compensation is formally approved or
22 authorized by the governing body of a county or a city not within a county. Provided that a
23 county or a city not within a county authorizes daily compensation payable from county or
24 city funds for jurors who serve in that county pursuant to this subsection in the amount of at
25 least six dollars per day in addition to the amount required by ~~[this]~~ **subsection 1 of this**
26 **section**, a person shall receive an additional six dollars per day to be reimbursed by the state
27 of Missouri so that the total compensation payable shall be at least eighteen dollars, plus
28 mileage for each day that the person actually serves as a petit juror in a particular case; or for
29 each day that a person actually serves as a grand juror during a term of a grand jury. The state
30 shall reimburse the county for six dollars of the additional juror compensation provided by
31 this subsection.

32 3. ~~[In any county of the first classification without a charter form of government and~~
33 ~~with a population of at least two hundred thousand inhabitants, no grand or petit juror shall~~
34 ~~receive compensation for the first two days of service, but shall receive fifty dollars per day~~
35 ~~for the third day and each subsequent day he or she may actually serve as such, and seven~~
36 ~~cents for every mile he or she may necessarily travel going from his or her place of residence~~
37 ~~to the courthouse and returning, to be paid from funds of the county]~~ **Notwithstanding the**
38 **provisions of subsection 1 or 2 of this section to the contrary, by a majority vote, the**
39 **governing body of a county or a city not within a county may adopt a system for juror**
40 **compensation in the county or a city not within a county as follows: each grand or petit**

41 **juror shall receive fifty dollars per day for the third day the juror may actually serve as**
 42 **a juror and for each subsequent day of actual service, and the mileage rate as provided**
 43 **by section 33.095 for state employees for every mile the juror may necessarily travel**
 44 **from the juror's place of residence to the courthouse and returning, to be paid from**
 45 **funds of the county or a city not within a county, provided that no grand or petit juror**
 46 **shall receive compensation for the first two days the juror may actually serve as such.**

47 4. When each panel of jurors summoned and attending court has completed its
 48 service, the board of jury commissioners shall cause to be submitted to the governing body of
 49 the county or a city not within a county a statement of fees earned by each juror. Within thirty
 50 days of the submission of the statement of fees, the governing body shall cause payment to be
 51 made to those jurors summoned the fees earned during their service as jurors.

509.520. 1. Notwithstanding any provision of law to the contrary, beginning August
 2 28, 2023, pleadings, attachments, exhibits filed with the court in any case, as well as any
 3 judgments or orders issued by the court, or other records of the court shall not include the
 4 following confidential and personal identifying information:

- 5 (1) The full Social Security number of any party or any child;
- 6 (2) The full credit card number, financial institution account number, personal
 7 identification number, or password used to secure an account of any party;
- 8 (3) The full motor vehicle operator license number;
- 9 (4) ~~[Victim] Information[, including the name, address, and other contact information~~
 10 ~~of the]~~ **concerning a victim or witness in a criminal case that is confidential as otherwise**
 11 **provided by statute or as prescribed in the Missouri supreme court rules of criminal**
 12 **procedure or operating rules;**
- 13 (5) ~~[Witness information, including the name, address, and other contact information~~
 14 ~~of the witness];~~
- 15 ~~(6)]~~ Any other full state identification number;
- 16 ~~[(7)]~~ (6) The name, address, and date of birth of a minor and, if applicable, any next
 17 friend; ~~or~~
- 18 ~~(8)]~~ (7) The full date of birth of any party; however, the year of birth shall be made
 19 available, except for a minor; **or**
- 20 **(8) Any other information redacted for good cause by order of the court.**

21 2. The information provided under subsection 1 of this section shall be provided in a
 22 confidential information filing sheet contemporaneously filed with the court or entered by the
 23 court, which shall not be subject to public inspection or availability.

24 3. Nothing in this section shall preclude an entity including, but not limited to, a
 25 financial institution, insurer, insurance support organization, or consumer reporting agency
 26 that is otherwise permitted by law to access state court records from using a person's unique

27 identifying information to match such information contained in a court record to validate that
28 person's record.

29 4. The Missouri supreme court shall promulgate rules to administer this section.

30 5. Contemporaneously with the filing of every petition for dissolution of marriage,
31 legal separation, motion for modification, action to establish paternity, and petition or motion
32 for support or custody of a minor child, the filing party shall file a confidential case filing
33 sheet with the court which shall not be subject to public inspection and which provides:

34 (1) The name and address of the current employer and the Social Security number of
35 the petitioner or movant, if a person;

36 (2) If known to the petitioner or movant, the name and address of the current
37 employer and the Social Security number of the respondent; and

38 (3) The names, dates of birth, and Social Security numbers of any children subject to
39 the action.

40 6. Contemporaneously with the filing of every responsive pleading petition for
41 dissolution of marriage, legal separation, motion for modification, action to establish
42 paternity, and petition or motion for support or custody of a minor child, the responding party
43 shall file a confidential case filing sheet with the court which shall not be subject to public
44 inspection and which provides:

45 (1) The name and address of the current employer and the Social Security number of
46 the responding party, if a person;

47 (2) If known to the responding party, the name and address of the current employer
48 and the Social Security number of the petitioner or movant; and

49 (3) The names, dates of birth, and Social Security numbers of any children subject to
50 the action.

51 7. The full Social Security number of any party or child subject to an order of custody
52 or support shall be retained by the court on the confidential case filing sheet or other
53 confidential record maintained in conjunction with the administration of the case. The full
54 credit card number or other financial account number of any party may be retained by the
55 court on a confidential record if it is necessary to maintain the number in conjunction with the
56 administration of the case.

57 8. Any document described in subsection 1 of this section shall, in lieu of the full
58 number, include only the last four digits of any such number.

59 9. Except as provided in section 452.430, the clerk shall not be required to redact any
60 document described in subsection 1 of this section issued or filed before August 28, 2009,
61 prior to releasing the document to the public.

62 10. For good cause shown, the court may release information contained on the
63 confidential case filing sheet; except that, any state agency acting under authority of chapter

64 454 shall have access to information contained herein without court order in carrying out their
65 official duty.

**510.500. Sections 510.500 to 510.521 shall be known and may be cited as the
2 "Uniform Interstate Depositions and Discovery Act".**

510.503. As used in sections 510.500 to 510.521, the following terms mean:

2 **(1) "Foreign jurisdiction", a state other than this state;**

3 **(2) "Foreign subpoena", a subpoena issued under authority of a court of record
4 of a foreign jurisdiction;**

5 **(3) "Person", an individual, corporation, business trust, estate, trust,
6 partnership, limited liability company, association, joint venture, public corporation,
7 government or political subdivision, agency or instrumentality, or any other legal or
8 commercial entity;**

9 **(4) "State", a state of the United States, the District of Columbia, Puerto Rico,
10 the United States Virgin Islands, a federally recognized Indian tribe, or any territory or
11 insular possession subject to the jurisdiction of the United States;**

12 **(5) "Subpoena", a document, however denominated, issued under authority of a
13 court of record requiring a person to:**

14 **(a) Attend and give testimony at a deposition;**

15 **(b) Produce and permit inspection and copying of designated books, documents,
16 records, electronically stored information, or tangible items in the possession, custody,
17 or control of the person; or**

18 **(c) Permit inspection of premises under the control of the person.**

**510.506. 1. To request issuance of a subpoena under this section, a party shall
2 submit a foreign subpoena to a clerk of court in the county in which discovery is sought
3 to be conducted in this state. A request for the issuance of a subpoena under sections
4 510.500 to 510.521 shall not constitute an appearance in the courts of this state.**

5 **2. If a party submits a foreign subpoena to a clerk of court in this state, the clerk,
6 in accordance with such court's procedure, shall promptly issue a subpoena for service
7 upon the person to which the foreign subpoena is directed.**

8 **3. A subpoena under subsection 2 of this section shall:**

9 **(1) Incorporate the terms used in the foreign subpoena; and**

10 **(2) Contain or be accompanied by the names, addresses, and telephone numbers
11 of all counsel of record in the proceeding to which the subpoena relates and of any party
12 not represented by counsel.**

**510.509. A subpoena issued by a clerk of court under section 510.506 shall be
2 served in compliance with the Missouri supreme court rules of civil procedure and laws
3 of this state.**

2 **510.512.** The Missouri supreme court rules of civil procedure and laws of this
state, and any amendments thereto, apply to subpoenas issued under section 510.506.

2 **510.515.** An application to the court for a protective order or to enforce, quash,
or modify a subpoena issued by a clerk of court under section 510.506 shall comply with
3 the Missouri supreme court rules of civil procedure and the laws of this state and be
4 submitted to the court in the county in which discovery is to be conducted.

2 **510.518.** In applying and construing sections 510.500 to 510.521, consideration
shall be given to the need to promote uniformity of the law with respect to its subject
3 matter among states that enact it.

2 **510.521.** Sections 510.500 to 510.521 apply to requests for discovery in cases
pending on August 28, 2025.

2 **537.529. 1.** This section shall be known and may be cited as the "Uniform Public
Expression Protection Act".

3 **2.** As used in this section, the following terms mean:

4 **(1)** "Goods or services", does not include a dramatic, literary, musical, political,
5 journalistic, or artistic work;

6 **(2)** "Governmental unit", any city, county, or other political subdivision of this
7 state, or any department, division, board, or other agency of any political subdivision of
8 this state;

9 **(3)** "Person", an individual, estate, trust, partnership, business or nonprofit
10 entity, governmental unit, or other legal entity.

11 **3.** Except as otherwise provided in subsection 4 of this section, the provisions of
12 this section shall apply to a cause of action asserted in a civil action against a person
13 based on the person's:

14 **(1)** Communication in a legislative, executive, judicial, administrative, or other
15 governmental proceeding;

16 **(2)** Communication on an issue under consideration or review in a legislative,
17 executive, judicial, administrative, or other governmental proceeding; or

18 **(3)** Exercise of the right of freedom of speech or of the press, the right to
19 assemble or petition, or the right of association, guaranteed by the Constitution of the
20 United States or the Constitution of the state of Missouri, on a matter of public concern.

21 **4.** The provisions of this section shall not apply to a cause of action asserted:

22 **(1)** Against a governmental unit or an employee or agent of a governmental unit
23 acting or purporting to act in an official capacity;

24 **(2)** By a governmental unit or an employee or agent of a governmental unit
25 acting in an official capacity to enforce a law to protect against an imminent threat to
26 public health or safety; or

27 **(3) Against a person primarily engaged in the business of selling or leasing goods**
28 **or services if the cause of action arises out of a communication related to the person's**
29 **sale or lease of the goods or services.**

30 **5. No later than sixty days after a party is served with a complaint, crossclaim,**
31 **counterclaim, third-party claim, or other pleading that asserts a cause of action to which**
32 **this section applies, or at a later time on a showing of good cause, the party may file a**
33 **special motion to dismiss the cause of action or part of the cause of action.**

34 **6. (1) Except as otherwise provided in this subsection:**

35 **(a) All other proceedings between the moving party and responding party in an**
36 **action, including discovery and a pending hearing or motion, are stayed on the filing of a**
37 **motion under subsection 5 of this section; and**

38 **(b) On motion by the moving party, the court may stay:**

39 **a. A hearing or motion involving another party if the ruling on the hearing or**
40 **motion would adjudicate a legal or factual issue that is material to the motion under**
41 **subsection 5 of this section; or**

42 **b. Discovery by another party if the discovery relates to a legal or factual issue**
43 **that is material to the motion under subsection 5 of this section.**

44 **(2) A stay under subdivision (1) of this subsection remains in effect until entry of**
45 **an order ruling on the motion filed under subsection 5 of this section and the expiration**
46 **of the time to appeal the order.**

47 **(3) If a party appeals from an order ruling on a motion under subsection 5 of**
48 **this section, all proceedings between all parties in an action are stayed. The stay**
49 **remains in effect until the conclusion of the appeal.**

50 **(4) During a stay under subdivision (1) of this subsection, the court may allow**
51 **limited discovery if a party shows that specific information is necessary to establish**
52 **whether a party has satisfied or failed to satisfy a burden imposed by subdivision (1) of**
53 **subsection 9 of this section and is not reasonably available without discovery.**

54 **(5) A motion for costs and expenses under subsection 12 of this section shall not**
55 **be subject to a stay under this section.**

56 **(6) A stay under this subsection does not affect a party's ability to voluntarily**
57 **dismiss a cause of action or part of a cause of action or move to sever a cause of action.**

58 **(7) During a stay under this section, the court for good cause may hear and rule**
59 **on:**

60 **(a) A motion unrelated to the motion under subsection 5 of this section; and**

61 **(b) A motion seeking a special or preliminary injunction to protect against an**
62 **imminent threat to public health or safety.**

63 7. (1) The court shall hear a motion under subsection 5 of this section no later
64 than sixty days after filing of the motion, unless the court orders a later hearing:

65 (a) To allow discovery under subdivision (4) of subsection 6 of this section; or

66 (b) For other good cause.

67 (2) If the court orders a later hearing under paragraph (a) of subdivision (1) of
68 this subsection, the court shall hear the motion under subsection 5 of this section no
69 later than sixty days after the court order allowing the discovery, subject to paragraph
70 (b) of subdivision (1) of this subsection.

71 8. In ruling on a motion under subsection 5 of this section, the court shall
72 consider the parties' pleadings, the motion, any replies and responses to the motion, and
73 any evidence that could be considered in ruling on a motion for summary judgment.

74 9. (1) In ruling on a motion under subsection 5 of this section, the court shall
75 dismiss with prejudice a cause of action or part of a cause of action if:

76 (a) The moving party establishes under subsection 3 of this section that this
77 section applies;

78 (b) The responding party fails to establish under subsection 4 of this section that
79 this section does not apply; and

80 (c) Either:

81 a. The responding party fails to establish a prima facie case as to each essential
82 element of the cause of action; or

83 b. The moving party establishes that:

84 (i) The responding party failed to state a cause of action upon which relief can be
85 granted; or

86 (ii) There is no genuine issue as to any material fact and the party is entitled to
87 judgment as a matter of law on the cause of action or part of the cause of action.

88 (2) A voluntary dismissal without prejudice of a responding party's cause of
89 action, or part of a cause of action, that is the subject of a motion under subsection 5 of
90 this section does not affect a moving party's right to obtain a ruling on the motion and
91 seek costs, reasonable attorney's fees, and reasonable litigation expenses under
92 subsection 12 of this section.

93 (3) A voluntary dismissal with prejudice of a responding party's cause of action,
94 or part of a cause of action, that is the subject of a motion under subsection 5 of this
95 section establishes for the purpose of subsection 12 of this section that the moving party
96 prevailed on the motion.

97 10. The court shall rule on a motion under subsection 5 of this section no later
98 than sixty days after the hearing under subsection 7 of this section.

99 **11. A moving party may appeal within twenty-one days as a matter of right from**
100 **an order denying, in whole or in part, a motion under subsection 5 of this section.**

101 **12. On a motion under subsection 5 of this section, the court shall award costs,**
102 **reasonable attorney's fees, and reasonable litigation expenses related to the motion:**

103 **(1) To the moving party if the moving party prevails on the motion; or**

104 **(2) To the responding party if the responding party prevails on the motion and**
105 **the court finds that the motion was frivolous or filed solely with intent to delay the**
106 **proceeding.**

107 **13. This section shall be broadly construed and applied to protect the exercise of**
108 **the right of freedom of speech and of the press, the right to assemble and petition, and**
109 **the right of association, guaranteed by the Constitution of the United States or the**
110 **Constitution of the state of Missouri.**

111 **14. In applying and construing this section, consideration shall be given to the**
112 **need to promote uniformity of the law with respect to its subject matter among states**
113 **that enact it.**

114 **15. This section applies to a civil action filed or cause of action asserted in a civil**
115 **action on or after August 28, 2025.**

559.125. 1. The clerk of the court shall keep in a permanent file all applications for
2 probation or parole by the court, and shall keep in such manner as may be prescribed by the
3 court complete and full records of all presentence investigations requested, probations or
4 paroles granted, revoked or terminated and all discharges from probations or paroles. All
5 court orders relating to any presentence investigation requested and probation or parole
6 granted under the provisions of this chapter and sections 558.011 and 558.026 shall be kept in
7 a like manner, and, if the defendant subject to any such order is subject to an investigation or
8 is under the supervision of the division of probation and parole, a copy of the order shall be
9 sent to the division of probation and parole. In any county where a parole board ceases to
10 exist, the clerk of the court shall preserve the records of that parole board.

11 **2. Except in criminal proceedings,** information and data obtained by a probation or
12 parole officer shall be privileged information and shall not be receivable in any court. Such
13 information shall not be disclosed directly or indirectly to anyone other than the members of a
14 parole board and the judge entitled to receive reports, except the court, the division of
15 probation and parole, or the parole board may in its discretion permit the inspection of the
16 report, or parts of such report, by the defendant, or offender or his or her attorney, or other
17 person having a proper interest therein.

18 **3. The provisions of subsection 2 of this section notwithstanding, the presentence**
19 **investigation report shall be made available to the state and all information and data obtained**
20 **in connection with preparation of the presentence investigation report may be made available**

21 to the state at the discretion of the court upon a showing that the receipt of the information
22 and data is in the best interest of the state.

566.151. 1. A person twenty-one years of age or older commits the offense of
2 enticement of a child if he or she persuades, solicits, coaxes, entices, or lures whether by
3 words, actions or through communication via the internet or any electronic communication,
4 any person who is less than ~~fifteen~~ **seventeen** years of age for the purpose of engaging in
5 sexual conduct.

6 2. It is not a defense to a prosecution for a violation of this section that the other
7 person was a peace officer masquerading as a minor.

8 3. Enticement of a child or an attempt to commit enticement of a child is a felony for
9 which the authorized term of imprisonment shall be not less than five years and not more than
10 thirty years. No person convicted under this section shall be eligible for parole, probation,
11 conditional release, or suspended imposition or execution of sentence for a period of five
12 calendar years.

567.030. 1. A person commits the offense of patronizing prostitution if he or she:

2 (1) Pursuant to a prior understanding, gives something of value to another person as
3 compensation for having engaged in sexual conduct with any person; or

4 (2) Gives or agrees to give something of value to another person with the
5 understanding that such person or another person will engage in sexual conduct with any
6 person; or

7 (3) Solicits or requests another person to engage in sexual conduct with any person in
8 return for something of value.

9 2. It shall not be a defense that the person believed that the individual he or she
10 patronized for prostitution was eighteen years of age or older.

11 3. The offense of patronizing prostitution is a class B misdemeanor, unless the
12 individual who the person patronizes is less than eighteen years of age but older than
13 ~~fourteen~~ **fifteen** years of age, in which case patronizing prostitution is a class E felony.

14 4. The offense of patronizing prostitution is a class ~~D~~ **B** felony if the individual who
15 the person patronizes is ~~fourteen~~ **fifteen** years of age or younger. Nothing in this section
16 shall preclude the prosecution of an individual for the offenses of:

17 (1) Statutory rape in the first degree pursuant to section 566.032;

18 (2) Statutory rape in the second degree pursuant to section 566.034;

19 (3) Statutory sodomy in the first degree pursuant to section 566.062; or

20 (4) Statutory sodomy in the second degree pursuant to section 566.064.

595.045. 1. There is established in the state treasury the "Crime Victims'
2 Compensation Fund". A surcharge of seven dollars and fifty cents shall be assessed as costs
3 in each court proceeding filed in any court in the state in all criminal cases including

4 violations of any county ordinance or any violation of criminal or traffic laws of the state,
5 including an infraction and violation of a municipal ordinance; except that no such fee shall
6 be collected in any proceeding in any court when the proceeding or the defendant has been
7 dismissed by the court or when costs are to be paid by the state, county, or municipality. A
8 surcharge of seven dollars and fifty cents shall be assessed as costs in a juvenile court
9 proceeding in which a child is found by the court to come within the applicable provisions of
10 subdivision (3) of subsection 1 of section 211.031.

11 2. Notwithstanding any other provision of law to the contrary, the moneys collected
12 by clerks of the courts pursuant to the provisions of subsection 1 of this section shall be
13 collected and disbursed in accordance with sections 488.010 to 488.020 and shall be payable
14 to the director of the department of revenue.

15 3. The director of revenue shall deposit annually the amount of two hundred fifty
16 thousand dollars to the state forensic laboratory account administered by the department of
17 public safety to provide financial assistance to defray expenses of crime laboratories if such
18 analytical laboratories are registered with the federal Drug Enforcement Agency or the
19 Missouri department of health and senior services. Subject to appropriations made therefor,
20 such funds shall be distributed by the department of public safety to the crime laboratories
21 serving the courts of this state making analysis of a controlled substance or analysis of blood,
22 breath or urine in relation to a court proceeding.

23 4. The remaining funds collected under subsection 1 of this section shall be denoted
24 to the payment of an annual appropriation for the administrative and operational costs of the
25 office for victims of crime and, if a statewide automated crime victim notification system is
26 established pursuant to section 650.310, to the monthly payment of expenditures actually
27 incurred in the operation of such system. Additional remaining funds shall be subject to the
28 following provisions:

29 (1) On the first of every month, the director of revenue or the director's designee shall
30 determine the balance of the funds in the crime victims' compensation fund available to
31 satisfy the amount of compensation payable pursuant to sections 595.010 to 595.075,
32 excluding sections 595.050 and 595.055;

33 (2) Beginning on September 1, 2004, and on the first of each month, the director of
34 revenue or the director's designee shall deposit fifty percent of the balance of funds available
35 to the credit of the crime victims' compensation fund and fifty percent to the services to
36 victims' fund established in section 595.100.

37 5. The director of revenue or such director's designee shall at least monthly report the
38 moneys paid pursuant to this section into the crime victims' compensation fund and the
39 services to victims fund to the department of public safety.

40 6. The moneys collected by clerks of municipal courts pursuant to subsection 1 of this
41 section shall be collected and disbursed as provided by sections 488.010 to 488.020. Five
42 percent of such moneys shall be payable to the city treasury of the city from which such funds
43 were collected. The remaining ninety-five percent of such moneys shall be payable to the
44 director of revenue. The funds received by the director of revenue pursuant to this subsection
45 shall be distributed as follows:

46 (1) On the first of every month, the director of revenue or the director's designee shall
47 determine the balance of the funds in the crime victims' compensation fund available to
48 satisfy the amount of compensation payable pursuant to sections 595.010 to 595.075,
49 excluding sections 595.050 and 595.055;

50 (2) Beginning on September 1, 2004, and on the first of each month the director of
51 revenue or the director's designee shall deposit fifty percent of the balance of funds available
52 to the credit of the crime victims' compensation fund and fifty percent to the services to
53 victims' fund established in section 595.100.

54 7. These funds shall be subject to a biennial audit by the Missouri state auditor. Such
55 audit shall include all records associated with crime victims' compensation funds collected,
56 held or disbursed by any state agency.

57 8. In addition to the moneys collected pursuant to subsection 1 of this section, the
58 court shall enter a judgment in favor of the state of Missouri, payable to the crime victims'
59 compensation fund, of sixty-eight dollars upon a plea of guilty or a finding of guilt for a class
60 A or B felony; forty-six dollars upon a plea of guilty or finding of guilt for a class C ~~or~~, D,
61 or E felony; and ten dollars upon a plea of guilty or a finding of guilt for any misdemeanor
62 under Missouri law except for those in chapter 252 relating to fish and game, chapter 302
63 relating to drivers' and commercial drivers' license, chapter 303 relating to motor vehicle
64 financial responsibility, chapter 304 relating to traffic regulations, chapter 306 relating to
65 watercraft regulation and licensing, and chapter 307 relating to vehicle equipment regulations.
66 Any clerk of the court receiving moneys pursuant to such judgments shall collect and disburse
67 such crime victims' compensation judgments in the manner provided by sections 488.010 to
68 488.020. Such funds shall be payable to the state treasury and deposited to the credit of the
69 crime victims' compensation fund.

70 9. The clerk of the court processing such funds shall maintain records of all
71 dispositions described in subsection 1 of this section and all dispositions where a judgment
72 has been entered against a defendant in favor of the state of Missouri in accordance with this
73 section; all payments made on judgments for alcohol-related traffic offenses; and any
74 judgment or portion of a judgment entered but not collected. These records shall be subject to
75 audit by the state auditor. The clerk of each court transmitting such funds shall report
76 separately the amount of dollars collected on judgments entered for alcohol-related traffic

77 offenses from other crime victims' compensation collections or services to victims
78 collections.

79 10. The department of revenue shall maintain records of funds transmitted to the
80 crime victims' compensation fund by each reporting court and collections pursuant to
81 subsection 16 of this section and shall maintain separate records of collection for alcohol-
82 related offenses.

83 11. The state courts administrator shall include in the annual report required by
84 section 476.350 the circuit court caseloads and the number of crime victims' compensation
85 judgments entered.

86 12. All awards made to injured victims under sections 595.010 to 595.105 and all
87 appropriations for administration of sections 595.010 to 595.105, except sections 595.050 and
88 595.055, shall be made from the crime victims' compensation fund. Any unexpended balance
89 remaining in the crime victims' compensation fund at the end of each biennium shall not be
90 subject to the provision of section 33.080 requiring the transfer of such unexpended balance
91 to the ordinary revenue fund of the state, but shall remain in the crime victims' compensation
92 fund. In the event that there are insufficient funds in the crime victims' compensation fund to
93 pay all claims in full, all claims shall be paid on a pro rata basis. If there are no funds in the
94 crime victims' compensation fund, then no claim shall be paid until funds have again
95 accumulated in the crime victims' compensation fund. When sufficient funds become
96 available from the fund, awards which have not been paid shall be paid in chronological order
97 with the oldest paid first. In the event an award was to be paid in installments and some
98 remaining installments have not been paid due to a lack of funds, then when funds do become
99 available that award shall be paid in full. All such awards on which installments remain due
100 shall be paid in full in chronological order before any other postdated award shall be paid.
101 Any award pursuant to this subsection is specifically not a claim against the state, if it cannot
102 be paid due to a lack of funds in the crime victims' compensation fund.

103 13. When judgment is entered against a defendant as provided in this section and such
104 sum, or any part thereof, remains unpaid, there shall be withheld from any disbursement,
105 payment, benefit, compensation, salary, or other transfer of money from the state of Missouri
106 to such defendant an amount equal to the unpaid amount of such judgment. Such amount
107 shall be paid forthwith to the crime victims' compensation fund and satisfaction of such
108 judgment shall be entered on the court record. Under no circumstances shall the general
109 revenue fund be used to reimburse court costs or pay for such judgment. The director of the
110 department of corrections shall have the authority to pay into the crime victims' compensation
111 fund from an offender's compensation or account the amount owed by the offender to the
112 crime victims' compensation fund, provided that the offender has failed to pay the amount
113 owed to the fund prior to entering a correctional facility of the department of corrections.

114 14. All interest earned as a result of investing funds in the crime victims'
115 compensation fund shall be paid into the crime victims' compensation fund and not into the
116 general revenue of this state.

117 15. Any person who knowingly makes a fraudulent claim or false statement in
118 connection with any claim hereunder is guilty of a class A misdemeanor.

119 16. The department may receive gifts and contributions for the benefit of crime
120 victims. Such gifts and contributions shall be credited to the crime victims' compensation
121 fund as used solely for compensating victims under the provisions of sections 595.010 to
122 595.075.

621.045. 1. The administrative hearing commission shall conduct hearings and make
2 findings of fact and conclusions of law in those cases when, under the law, a license issued by
3 any of the following agencies may be revoked or suspended or when the licensee may be
4 placed on probation or when an agency refuses to permit an applicant to be examined upon
5 his or her qualifications or refuses to issue or renew a license of an applicant who has passed
6 an examination for licensure or who possesses the qualifications for licensure without
7 examination:

- 8 Missouri State Board of Accountancy
- 9 Missouri State Board for Architects, Professional Engineers, Professional Land
- 10 Surveyors and Landscape Architects
- 11 Board of Barber Examiners
- 12 Board of Cosmetology
- 13 Board of Chiropody and Podiatry
- 14 Board of Chiropractic Examiners
- 15 Missouri Dental Board
- 16 Board of Embalmers and Funeral Directors
- 17 Board of Registration for the Healing Arts
- 18 Board of Nursing
- 19 Board of Optometry
- 20 Board of Pharmacy
- 21 Missouri Real Estate Commission
- 22 Missouri Veterinary Medical Board
- 23 Supervisor of Liquor Control
- 24 Department of Health and Senior Services
- 25 Department of Commerce and Insurance
- 26 Department of Mental Health
- 27 Board of Private Investigator Examiners.

28 2. If in the future there are created by law any new or additional administrative
29 agencies which have the power to issue, revoke, suspend, or place on probation any license,
30 then those agencies are under the provisions of this law.

31 3. The administrative hearing commission is authorized to conduct hearings and make
32 findings of fact and conclusions of law in those cases brought by the Missouri state board for
33 architects, professional engineers, professional land surveyors and landscape architects
34 against unlicensed persons under section 327.076.

35 4. **The administrative hearing commission is authorized to conduct hearings and**
36 **make findings of fact and conclusions of law in those cases brought by the division of**
37 **workers' compensation of the department of labor and industrial relations against**
38 **administrative law judges under section 287.610.**

39 5. Notwithstanding any other provision of this section to the contrary, after August
40 28, 1995, in order to encourage settlement of disputes between any agency described in
41 subsection 1 or 2 of this section and its licensees, any such agency shall:

42 (1) Provide the licensee with a written description of the specific conduct for which
43 discipline is sought and a citation to the law and rules allegedly violated, together with copies
44 of any documents which are the basis thereof and the agency's initial settlement offer, or file a
45 contested case against the licensee;

46 (2) If no contested case has been filed against the licensee, allow the licensee at least
47 sixty days, from the date of mailing, to consider the agency's initial settlement offer and to
48 contact the agency to discuss the terms of such settlement offer;

49 (3) If no contested case has been filed against the licensee, advise the licensee that the
50 licensee may, either at the time the settlement agreement is signed by all parties, or within
51 fifteen days thereafter, submit the agreement to the administrative hearing commission for
52 determination that the facts agreed to by the parties to the settlement constitute grounds for
53 denying or disciplining the license of the licensee; and

54 (4) In any contact under this subsection by the agency or its counsel with a licensee
55 who is not represented by counsel, advise the licensee that the licensee has the right to consult
56 an attorney at the licensee's own expense.

57 ~~[5-]~~ 6. If the licensee desires review by the administrative hearing commission under
58 subdivision (3) of subsection ~~[4]~~ 5 of this section at any time prior to the settlement becoming
59 final, the licensee may rescind and withdraw from the settlement and any admissions of fact
60 or law in the agreement shall be deemed withdrawn and not admissible for any purposes
61 under the law against the licensee. Any settlement submitted to the administrative hearing
62 commission shall not be effective and final unless and until findings of fact and conclusions
63 of law are entered by the administrative hearing commission that the facts agreed to by the

64 parties to the settlement constitute grounds for denying or disciplining the license of the
65 licensee.

66 ~~[6.]~~ 7. When a holder of a license, registration, permit, or certificate of authority
67 issued by the division of professional registration or a board, commission, or committee of the
68 division of professional registration against whom an affirmative decision is sought has failed
69 to plead or otherwise respond in the contested case and adequate notice has been given under
70 sections 536.067 and 621.100 upon a properly pled writing filed to initiate the contested case
71 under this chapter or chapter 536, a default decision shall be entered against the licensee
72 without further proceedings. The default decision shall grant such relief as requested by the
73 division of professional registration, board, committee, commission, or office in the writing
74 initiating the contested case as allowed by law. Upon motion stating facts constituting a
75 meritorious defense and for good cause shown, a default decision may be set aside. The
76 motion shall be made within a reasonable time, not to exceed thirty days after entry of the
77 default decision. "Good cause" includes a mistake or conduct that is not intentionally or
78 recklessly designed to impede the administrative process.

2 ~~[435.014. 1. If all the parties to a dispute agree in writing to submit~~
3 ~~their dispute to any forum for arbitration, conciliation or mediation, then no~~
4 ~~person who serves as arbitrator, conciliator or mediator, nor any agent or~~
5 ~~employee of that person, shall be subpoenaed or otherwise compelled to~~
6 ~~disclose any matter disclosed in the process of setting up or conducting the~~
7 ~~arbitration, conciliation or mediation.~~

8 ~~2. Arbitration, conciliation and mediation proceedings shall be~~
9 ~~regarded as settlement negotiations. Any communication relating to the~~
10 ~~subject matter of such disputes made during the resolution process by any~~
11 ~~participant, mediator, conciliator, arbitrator or any other person present at the~~
12 ~~dispute resolution shall be a confidential communication. No admission,~~
13 ~~representation, statement or other confidential communication made in setting~~
14 ~~up or conducting such proceedings not otherwise discoverable or obtainable~~
~~shall be admissible as evidence or subject to discovery.]~~

2 ~~[469.409. 1. Any claim for breach of a trustee's duty to impartially~~
3 ~~administer a trust related, directly or indirectly, to an adjustment made by a~~
4 ~~fiduciary to the allocation between principal and income pursuant to~~
5 ~~subsection 1 of section 469.405 or any allocation made by the fiduciary~~
6 ~~pursuant to any authority or discretion specified in subsection 1 of section~~
7 ~~469.403, unless previously barred by adjudication, consent or other limitation,~~
8 ~~shall be barred as provided in this section.~~

9 ~~(1) Any such claim brought by a qualified beneficiary is barred if not~~
10 ~~asserted in a judicial proceeding commenced within two years after the trustee~~
11 ~~has sent a report to that qualified beneficiary that adequately discloses the facts~~
12 ~~constituting the claim.~~

13 ~~(2) Any such claim brought by a beneficiary (other than a qualified~~
~~beneficiary) with any interest whatsoever in the trust, no matter how remote or~~

14 ~~contingent, or whether or not the beneficiary is ascertainable or has the~~
 15 ~~capacity to contract, is barred if not asserted in a judicial proceeding~~
 16 ~~commenced within two years after the first to occur of:~~
 17 ~~(a) The date the trustee sent a report to all qualified beneficiaries that~~
 18 ~~adequately discloses the facts constituting the claim; or~~
 19 ~~(b) The date the trustee sent a report to a person that represents the~~
 20 ~~beneficiary under the provisions of subdivision (2) of subsection 2 of this~~
 21 ~~section.~~
 22 ~~2. For purposes of this section the following rules shall apply:~~
 23 ~~(1) A report adequately discloses the facts constituting a claim if it~~
 24 ~~provides sufficient information so that the beneficiary should know of the~~
 25 ~~claim or reasonably should have inquired into its existence;~~
 26 ~~(2) Section 469.402 shall apply in determining whether a beneficiary~~
 27 ~~(including a qualified beneficiary) has received notice for purposes of this~~
 28 ~~section;~~
 29 ~~(3) The determination of the identity of all qualified beneficiaries shall~~
 30 ~~be made on the date the report is deemed to have been sent; and~~
 31 ~~(4) This section does not preclude an action to recover for fraud or~~
 32 ~~misrepresentation related to the report.]~~

2 ~~[469.411. 1. (1) If the provisions of this section apply to a trust, the~~
 3 ~~unitrust amount determined for each accounting year of the trust shall be a~~
 4 ~~percentage between three and five percent of the average net fair market value~~
 5 ~~of the trust, as of the first day of the trust's current accounting year. The~~
 6 ~~percentage applicable to a trust shall be that percentage specified by the terms~~
 7 ~~of the governing instrument or by the election made in accordance with~~
 8 ~~subdivision (2) of subsection 5 of this section.~~
 9 ~~(2) The unitrust amount for the current accounting year computed~~
 10 ~~pursuant to this section shall be proportionately reduced for any distributions,~~
 11 ~~in whole or in part, other than distributions of the unitrust amount, and for any~~
 12 ~~payments of expenses, including debts, disbursements and taxes, from the trust~~
 13 ~~within a current accounting year that the trustee determines to be material and~~
 14 ~~substantial, and shall be proportionately increased for the receipt, other than a~~
 15 ~~receipt that represents a return on investment, of any additional property into~~
 16 ~~the trust within a current accounting year.~~
 17 ~~(3) For purposes of this section, the net fair market values of the assets~~
 18 ~~held in the trust on the first business day of a prior accounting quarter shall be~~
 19 ~~adjusted to reflect any reduction, in the case of a distribution or payment, or~~
 20 ~~increase, in the case of a receipt, for the prior accounting year pursuant to~~
 21 ~~subdivision (1) of this subsection, as if the distribution, payment or receipt had~~
 22 ~~occurred on the first day of the prior accounting year.~~
 23 ~~(4) In the case of a short accounting period, the trustee shall prorate~~
 24 ~~the unitrust amount on a daily basis.~~
 25 ~~(5) In the case where the net fair market value of an asset held in the~~
 26 ~~trust has been incorrectly determined in any quarter, the unitrust amount shall~~
 27 ~~be increased in the case of an undervaluation, or be decreased in the case of an~~
 28 ~~overvaluation, by an amount equal to the difference between the unitrust~~

28 amount determined based on the correct valuation of the asset and the unitrust
29 amount originally determined.

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

31 (1) "Average net fair market value", a rolling average of the fair
32 market value of the assets held in the trust on the first business day of the
33 lessor of the number of accounting quarters of the trust from the date of
34 inception of the trust to the determination of the trust's average net fair market
35 value, or twelve accounting quarters of the trust, regardless of whether this
36 section applied to the ascertainment of net income for all valuation quarters;

37 (2) "Current accounting year", the accounting period of the trust for
38 which the unitrust amount is being determined.

39 3. In determining the average net fair market value of the assets held in
40 the trust, there shall not be included the value of:

41 (1) Any residential property or any tangible personal property that, as
42 of the first business day of the current valuation year, one or more income
43 beneficiaries of the trust have or had the right to occupy, or have or had the
44 right to possess or control, other than in a capacity as trustee, and instead the
45 right of occupancy or the right to possession or control shall be deemed to be
46 the unitrust amount with respect to the residential property or the tangible
47 personal property; or

48 (2) Any asset specifically given to a beneficiary under the terms of the
49 trust and the return on investment on that asset, which return on investment
50 shall be distributable to the beneficiary.

51 4. In determining the average net fair market value of the assets held in
52 the trust pursuant to subsection 1 of this section, the trustee shall, not less often
53 than annually, determine the fair market value of each asset of the trust that
54 consists primarily of real property or other property that is not traded on a
55 regular basis in an active market by appraisal or other reasonable method or
56 estimate, and that determination, if made reasonably and in good faith, shall be
57 conclusive as to all persons interested in the trust. Any claim based on a
58 determination made pursuant to this subsection shall be barred if not asserted
59 in a judicial proceeding brought by any beneficiary with any interest
60 whatsoever in the trust within two years after the trustee has sent a report to all
61 qualified beneficiaries that adequately discloses the facts constituting the
62 claim. The rules set forth in subsection 2 of section 469.409 shall apply to the
63 barring of claims pursuant to this subsection.

64 5. This section shall apply to the following trusts:

65 (1) Any trust created after August 28, 2001, with respect to which the
66 terms of the trust clearly manifest an intent that this section apply;

67 (2) Any trust created under an instrument that became irrevocable on,
68 before, or after August 28, 2001, if the trustee, in the trustee's discretion, elects
69 to have this section apply unless the instrument creating the trust specifically
70 prohibits an election under this subdivision. The trustee shall deliver notice to
71 all qualified beneficiaries and the settlor of the trust, if he or she is then living,
72 of the trustee's intent to make such an election at least sixty days before
73 making that election. The trustee shall have sole authority to make the
74 election. Section 469.402 shall apply for all purposes of this subdivision. An
75 action or order by any court shall not be required. The election shall be made

76 by a signed writing delivered to the settlor of the trust, if he or she is then
 77 living, and to all qualified beneficiaries. The election is irrevocable, unless
 78 revoked by order of the court having jurisdiction of the trust. The election
 79 may specify the percentage used to determine the unitrust amount pursuant to
 80 this section, provided that such percentage is between three and five percent,
 81 or if no percentage is specified, then that percentage shall be three percent. In
 82 making an election pursuant to this subsection, the trustee shall be subject to
 83 the same limitations and conditions as apply to an adjustment between income
 84 and principal pursuant to subsections 3 and 4 of section 469.405; and

85 (3) No action of any kind based on an election made by a trustee
 86 pursuant to subdivision (2) of this subsection shall be brought against the
 87 trustee by any beneficiary of that trust three years from the effective date of
 88 that election.

89 6. (1) Once the provisions of this section become applicable to a trust,
 90 the net income of the trust shall be the unitrust amount.

91 (2) Unless otherwise provided by the governing instrument, the
 92 unitrust amount distributed each year shall be paid from the following sources
 93 for that year up to the full value of the unitrust amount in the following order:

94 (a) Net income as determined if the trust were not a unitrust;

95 (b) Other ordinary income as determined for federal income tax
 96 purposes;

97 (c) Assets of the trust principal for which there is a readily available
 98 market value; and

99 (d) Other trust principal.

100 (3) Additionally, the trustee may allocate to trust income for each
 101 taxable year of the trust, or portion thereof:

102 (a) Net short-term capital gain described in the Internal Revenue Code,
 103 26 U.S.C. Section 1222(5), for such year, or portion thereof, but only to the
 104 extent that the amount so allocated together with all other amounts to trust
 105 income, as determined under the provisions of this chapter without regard to
 106 this section, for such year, or portion thereof, does not exceed the unitrust
 107 amount for such year, or portion thereof;

108 (b) Net long-term capital gain described in the Internal Revenue Code,
 109 26 U.S.C. Section 1222(7), for such year, or portion thereof, but only to the
 110 extent that the amount so allocated together with all other amounts, including
 111 amounts described in paragraph (a) of this subdivision, allocated to trust
 112 income for such year, or portion thereof, does not exceed the unitrust amount
 113 for such year, or portion thereof.

114 7. A trust with respect to which this section applies on August 28,
 115 2011, may calculate the unitrust amount in accordance with the provisions of
 116 this section, as it existed either before or after such date, as the trustee of such
 117 trust shall determine in a writing kept with the records of the trust in the
 118 trustee's discretion.]

2 [469.461. 1. A fiduciary may make adjustments between principal and
 3 income to offset the shifting of economic interests or tax benefits between
 income beneficiaries and remainder beneficiaries which arise from:

4 ~~(1) Elections and decisions, other than those described in subsection 2~~
 5 ~~of this section, that the fiduciary makes from time to time regarding tax~~
 6 ~~matters;~~

7 ~~(2) An income tax or any other tax that is imposed upon the fiduciary~~
 8 ~~or a beneficiary as a result of a transaction involving or a distribution from the~~
 9 ~~estate or trust; or~~

10 ~~(3) The ownership by an estate or trust of an interest in an entity whose~~
 11 ~~taxable income, whether or not distributed, is includable in the taxable income~~
 12 ~~of the estate, trust or a beneficiary.~~

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

2 ~~[537.528.— 1. Any action against a person for conduct or speech~~
 3 ~~undertaken or made in connection with a public hearing or public meeting, in a~~
 4 ~~quasi-judicial proceeding before a tribunal or decision-making body of the~~
 5 ~~state or any political subdivision of the state is subject to a special motion to~~
 6 ~~dismiss, motion for judgment on the pleadings, or motion for summary~~
 7 ~~judgment that shall be considered by the court on a priority or expedited basis~~
 8 ~~to ensure the early consideration of the issues raised by the motion and to~~
 9 ~~prevent the unnecessary expense of litigation. Upon the filing of any special~~
 10 ~~motion described in this subsection, all discovery shall be suspended pending a~~
 11 ~~decision on the motion by the court and the exhaustion of all appeals regarding~~
 12 ~~the special motion.~~

13 ~~2. If the rights afforded by this section are raised as an affirmative~~
 14 ~~defense and if a court grants a motion to dismiss, a motion for judgment on the~~
 15 ~~pleadings or a motion for summary judgment filed within ninety days of the~~
 16 ~~filing of the moving party's answer, the court shall award reasonable attorney~~
 17 ~~fees and costs incurred by the moving party in defending the action. If the~~
 18 ~~court finds that a special motion to dismiss or motion for summary judgment is~~
 19 ~~frivolous or solely intended to cause unnecessary delay, the court shall award~~
 20 ~~costs and reasonable attorney fees to the party prevailing on the motion.~~

21 ~~3. Any party shall have the right to an expedited appeal from a trial~~
 22 ~~court order on the special motions described in subsection 2 of this section or~~
 23 ~~from a trial court's failure to rule on the motion on an expedited basis.~~

24 ~~4. As used in this section, a "public meeting in a quasi-judicial~~
~~proceeding" means and includes any meeting established and held by a state or~~

25 ~~local governmental entity, including without limitations meetings or~~
26 ~~presentations before state, county, city, town or village councils, planning~~
27 ~~commissions, review boards or commissions.~~

28 ~~5. Nothing in this section limits or prohibits the exercise of a right or~~
29 ~~remedy of a party granted pursuant to another constitutional, statutory,~~
30 ~~common law or administrative provision, including civil actions for~~
31 ~~defamation.~~

32 ~~6. If any provision of this section or the application of any provision of~~
33 ~~this section to a person or circumstance is held invalid, the invalidity shall not~~
34 ~~affect other provisions or applications of this section that can be given effect~~
35 ~~without the invalid provision or application, and to this end the provisions of~~
36 ~~this section are severable.~~

37 ~~7. The provisions of this section shall apply to all causes of actions.]~~

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