

**IN THE SUPREME COURT**

**STATE OF MISSOURI**

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**JEFFREY S. AMICK,**  
Appellant,

Vs.

**DIRECTOR OF REVENUE,**  
Respondent.

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**FILED**

**MAR 15 2014**

**CLERK, SUPREME COURT**

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**CASE# SC93742**

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**APPEAL TO THE MISSOURI SUPREME COURT  
FROM THE ST. LOUIS COUNTY, CIRCUIT COURT  
21st JUDICIAL CIRCUIT, CASE# 13-SL-AC26334  
THE HONORABLE MARGARET M. MCCARTNEY &  
THE HONORABLE THOMAS J. PREBIL**

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**Appellant's Reply Brief**

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**SCANNED**

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<sup>1</sup> Appellant preserves all the arguments presented in his original brief. Pursuant to Mo.  
Ct. R. 84.04 (g) only the arguments that are necessary for an adequate reply are herein.

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**JURISDICTIONAL STATEMENT**

Appellant incorporates the Jurisdictional Statement from his original brief.

**STATEMENT OF FACTS**

Appellant incorporates the Statement of Facts from his original brief.

**POINT RELIED ON**

**The State’s arguments are in err because allowing some R.S.Mo. 577.023.1(5)(a) convicted offenders to complete/participate in a DWI Court/Docket to receive eligibility in the L.D.P. while excluding those who have not, pursuant to R.S.Mo. 302.309.3(6)(b) violates the Equal Protection Clause of the 14th Amendment to the United States Constitution, and Article I Section 2 of the Missouri Constitution.**

**ARGUMENT**

**The State’s arguments are in err because allowing some R.S.Mo. 577.023.1(5)(a) convicted offenders to complete/participate in a DWI Court/Docket to receive**

**eligibility in the L.D.P. while excluding those who have not, pursuant to R.S.Mo. 302.309.3(6)(b) violates the Equal Protection Clause of the 14th Amendment to the United States Constitution, and Article I Section 2 of the Missouri Constitution.**

### **STANDARD OF REVIEW**

Because respondents have raised the issue of strict scrutiny review in their brief, appellant would like to reply by asking for strict scrutiny review and has provided 4 questions and 4 arguments in support of strict scrutiny review. Alternately, appellant asks for a rational basis review and incorporates the standard of review request that was included in appellant's original brief.

### **QUESTIONS AND ARGUMENTS SUPPORTING STRICT SCRUTINY REVIEW**

**Question I: Is there a fundamental right to receive equal protection in the consequences, and punishment which stem from a criminal conviction?**

**Argument I:** While this Honorable Court has not yet weighed in on the issue, the Delaware Supreme Court has persuasively ruled in *Barkley V State*, 724 A 2d. 558 (Del. Supr. 1999) that the loss of driving privilege is a direct consequence resulting from a criminal conviction. Appellant sincerely believes he should have a fundamental right to receive equal protection in the consequences, and punishment that stem from his conviction.

Appellant's layman research activities have failed to identify exactly what right an equal protection violation is in this aspect of the criminal proceeding, but it appears that it might be a fundamental one. The right of equal protection identified in *Gideon V*

*Wainwright*, 372 U.S. 335 (1963); *Douglas V California*, 372 U.S. 353 (1963); and *Griffin V Illinois*, 351 U.S. 12 (1956) appears to be fundamental in nature. Therefore, appellant is currently at a loss in determining why the equal protection in the punishment, and consequences derived from the criminal conviction could be any different. All those who are similarly situated should be entitled to every right and opportunity that their similarly situated counterpart has also, and should not unequally be subjected to harsher punishments, and higher degrees of consequence. Appellant is unsure of exactly what level of review is proper (i.e., strict scrutiny, intermediate, or rational basis) in a violation to the equal protection rights in the criminal conviction context, but it seems to be a fundamental right, and if so should receive strict scrutiny review. See *Griffin* id. at 17 “all people charged with a crime must so far as the law is concerned ‘stand on an equality before the bar of justice in every American Court’” citing *Chambers V. Florida*, 309 U.S. 227, 241 (1940)

**Question II: Is an Indigent’s Denial Into the DWI Court/Docket an Equal Access to the Court’s Violation Which Denies a Fundamental Right?**

**Argument II:** Appellant is really unsure what kind of Court the DWI Court/Docket is, but it seems evidently clear that when indigents are denied equal access to this court, it could implicate a fundamental right and thus would be proper for strict scrutiny review if it did.

**Question III: If There is Wealth Discrimination in the DWI Court/Docket Can This Trigger Strict Scrutiny Review if the Two Factors in *San Antonio Independent School District V Rodriguez* 411 U.S. 1 (1973) Are Present?**

**Argument III:** The United States Supreme Court in *San Antonio id.* 20-21 (cf 20-26) seemed to have ruled in dicta that wealth discrimination can trigger strict scrutiny review if the litigant can establish two distinguishing characteristics. 1) Inability to pay for desired benefit; 2) As a consequence, they sustained an absolute deprivation of a meaningful opportunity to enjoy the benefit.

There is not even a procedure in place to determine who may or may not be a poor person. Therefore, applicant is only left with the options of: 1) paying the fees; or 2) not participating e.g., this is an absolute deprivation. This point is further validated by borrowing the words of the Honorable Alan Blakenship (Appendix A2) who states: “There is no free ride for the individuals participating in the DWI Court, as expenses for the SATOP assessment and program fees, along with the DWI court fees are approximately \$3,200.” Appellant is really unsure if he can phrase the reality of **there is no free ride** any better than it has already been said.

In appellant’s view, no Missouri Statutes, Court Rules, or Regulations, give authority to allow an indigent into the DWI Court/Docket and all the evidence and authority establishes that indigents are not allowed entrance. Therefore, wealth and the ability to pay are a mandatory requirement and without this, the individual will suffer an absolute deprivation of being able to utilize the DWI Court/Docket or any benefits

derived therefrom. Furthermore, appellant would also like to incorporate Paragraph C *infra*, in support of the wealth discrimination towards potential DWI Court/Docket participants.

**Question IV: If the United States Supreme Court Has Not Yet Ruled the Poor Are a Suspect Class Does This Mean That They Are Not?**

**Argument IV:** Appellant's layman view of *San Antonio id.* at 15-18 is that the United States Supreme Court conducted an extensive review about the poor as potentially being a suspect class, but in the end they did not definitively decide whether they do in actuality constitute a suspect class. Thus, if appellant's reading is correct, then the matter of whether the poor are a suspect class is still a valid question, which remains ripe for debate and a decision.

**INTRODUCTION**

In Appellant's Brief, he originally extended a great amount of time and effort to supply his arguments in a well reasoned, clear, and concise manner. The arguments that follow are a subsequent attempt at furthering my original intent, while effectively countering and refuting all of the state's relevant arguments.

**A) The argument is the disparate punishment of defendants who are convicted of the same crime.**

Respondent's brief attempts to reframe the issue as a matter of a L.D.P. applicant not receiving a discretionary right when the real issue is the unequal punishment of defendants after being convicted of the same crime. While it is true that the granting of

the L.D.P. is a matter of discretion, R.S.Mo. 302.309.3(6)(b) removes the discretionary granting of this privilege. Inter alia, it effectively changes the range of punishment. Thus, 2 people convicted of the same crime do not receive equal protection from the consequences of their conviction. While the L.D.P. applicant might not have a right to the discretionary granting of the L.D.P. they should have a right to equal protection in the consequences, and punishment of their conviction when they are convicted of the same crime. The violation of equal protection in this regard is both applicants are convicted of the same crime but one is statutorily ineligible and the other is not, and ultimately this constitutes unequal punishment for the same crime, and conviction. See *State V Gregori*, 2 S.W. 747, 748 (1928) “It is the general doctrine that the law, relative that those who may be charged and convicted of a crime, as well as the punishment to be inflicted therefor, shall operate equally upon every citizen or inhabitant of the state.” See also Missouri Constitution Article I Section 2 “All persons are created equal and are entitled to equal rights and opportunities under the law; that to give security to these things is the principal office of government, and that when the government does not confer this security it fails in it’s chief design.”

**B) While DWI Courts/Dockets do serve a rational basis for the state they lack the sufficient rational basis to exclude (R.S.Mo. 577.023.1(5)(a) convicted offenders) L.D.P. applicants for eligibility in their absence. The state cannot pass the rationality test because the policy is an invidious discrimination. Furthermore,**

**their reasoning towards the goal is flawed because it is so attenuated, to render the distinction arbitrary or irrational.**

Appellant has never asserted that DWI Courts/Dockets do not have great benefits for all interested parties, and personally feels that all treatment courts do extraordinary things in nature. Appellant feels they offer extreme benefits to offenders, their families, the public, treatment officials, the judiciary, and every other reasonably conceivable faction in Missouri, and The United States too. Matter of fact, appellant feels so strongly about the idea of non-recidivism, the rehabilitation of offenders, and the non-incarceration of low level offenders, that he has devoted the bulk of his current educational pursuits towards receiving an M.Ed. in counseling so he can help in these endeavors also.

On the other hand, appellant does not feel that a rational basis exists to exclude a portion of L.D.P. applicants simply because they did not graduate/participate from a DWI Court/Docket.

See *Missouri Pacific Railroad Company V. Kirkpatrick* 652 S.W. 2d 128, 132 (1983) “Equal protection does not mean that the state cannot treat one class of entities differently than another. The measure lies in whether the difference amounts to invidious discrimination.” (internal citation omitted) The invidious discrimination in this instance occurs against indigents because there is a blanket policy of denying them all entrance.

Furthermore, a state “may not rely on a classification whose relationship to an asserted goal is so attenuated as to render the distinction arbitrary or irrational” *City of*

*Cleburne, Tex. V. Cleburne Living Center*, 473 U.S. 432, 447 (1985) The public's safety is not being ensured by the DWI Court/Docket, and instead the public is being protected from the dangers of potential drunk drivers by the schema of the ignition interlock system. Standing alone, the DWI Court/Docket plays no role in mandating public safety and it's role should be viewed as too remote in nature to pass the violation of equal protection involved with this inquiry, especially when combined with the fact that it discriminates against the poverty stricken.

**C) <sup>3,4</sup>Neither the Missouri Court Rules, or Statutes (Specifically 478.007.2) Makes any allocation for the impoverished in the DWI Court/Docket. Respondents should not be allowed to invent a clause/procedure when the Statute is silent on the matter, and it is wholly illogical to have expected appellant to conform to a Nonexistent procedure.**

Respondents cite 478.007.2 for the proposition that Missouri Judges have the authority to determine indigency and waive costs for the DWI Court/Docket. A question of statutory interpretation is a question reviewed de novo... See *Gash V Lafayette County* 245 S.W. 3d 229, 231-32 (2008) 'The primary rule of statutory interpretation is to give effect to the legislative intent as reflected in the plain language of the statute.' (internal

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<sup>3</sup> The facts are the same for everyone who is impoverished. He cannot be expected to have conformed with a procedure that is not in existence.

<sup>4</sup> Treatment courts are nothing new as last year Missouri marked the 20th anniversary of their existence. See Appendix A3;

citation omitted) Appellant assumes the provision which respondents speak of is the portion (R.S.Mo. 478.007.2) that states: **“The court may assess any and all necessary costs for participation in DWI court against the participant.”**

“In order to discern the intent of the General Assembly, the Court looks to the statutory definitions or, if none are provided, the text’s ‘plain and ordinary meaning,’ which may be derived from a dictionary.” *Gash* id. The definition of **“may”** by Black’s Law Dictionary 8th ed. (Appendix A4 ) states at section 3: “Loosely, is required to: shall; must”. So if we could combine the two we would have: The Court may, (Loosely, is required to: shall; must) assess any and all necessary costs for participation in the DWI Court against the participant. While it probably does not need to be said, for the sake of argument, appellant asserts that this statute does not grant authority to permit indigents into the DWI Court/Docket.

Appellant has been unable to locate any Missouri Court Rule, Statute, Case Law, Regulations, etc., that grants authority to waive the necessary costs, or stipulates that there is another entity who has funding that can pay the costs. If no procedure/authority exists where a Judge could even go about assessing/granting the indigent’s request, then how could the Judge first go about assessing the matter and then later granting/denying the request? These facts are similar to *Halbert V. Michigan*, 545 U.S. 605, 623 (2005) where the State of Michigan claimed a defendant had waived their right and afterwards the U.S. Supreme Court declared that if one had no recognized right how could they elect

to forgo it. This is similar to appellant's situation in that it seems irrational to assert a defendant should be expected to have used a procedure to determine their poverty status in a DWI Court/Docket proceeding that is not yet in existence.

Assuming *arguendo* (hypothetically) appellant did request this and the Judge thereafter did believe it should be granted, then what would/should we have expected the Judge to do? How could the Judge grant the request, if no jurisdiction/authority could be found to execute this action? Thereafter, who would be expected to pay the participant's fees even if he/she granted the request? There appears to be no *pro bono* stipulations or a fund in reserve that the monies could be withdrawn from. Even if hidden through a maze of proceedings and back door approaches, if there were a haphazardly loose approach to granting an indigent's request, how should the general public, judges, lawyers, and defendants be expected to know this? The laws are enforceable because they are published and everyone is expected to know of their existence. On the same token, when the laws are not published and no one knows of their existence, they are unreachable and should be non-enforceable.

Respondents might wish a clause was included in R.S.Mo. 478.007.2 (or somewhere else too) to determine indigency (for the DWI Court/Docket) and to counteract this, they may want to invent a clause where the statute is silent, but it would defy logic, authority, and public policy to allow them to do this. The results would be disastrous if litigants were allowed to daydream on the silence of statutes, rules,

regulations, etc., and thereafter relay their prophecies onto the Court who would be bound, or adopt these self made proclamations. Especially in the instant case because the facts, authority, and evidence, are all weighted heavily against this imaginary clause/procedure. See also *Loren Cook Co. V. Director of Revenue*, 414 S.W. 3d 451, 454 (2013) “This Court must examine the language of the statutes as they are written. (internal citation omitted) It simply cannot insert terms the legislature has omitted.”

Lastly, even if Respondents could piece together some other alternate reading of the statute, the rule of lenity *United Pharmacal Co. of Missouri, Inc. V. Missouri Bd. of Pharmacy*, 208 S.W. 3d 907 (2006) should dictate that this ultimately ambiguous view could be resolved against the state too.

**D) One reason the lack of alternate treatment options, or other factual considerations should be assessed, is because respondent’s contention is that the treatment objective is the rational basis for the DWI Court/Docket in the L.D.P. equation; In addition, Legislation has made a DWI Court/Docket a prerequisite for the L.D.P. (577.023.1(5)(a) convicted offender) applicant, while making no other allowances. This appears to violate an applicant’s equal protection right to due process, and an exploration into this discriminatory procedure might be necessary, since it seems to be a matter of first impression.**

If asking to assess the wisdom of the legislature in the treatment options/objective will place this Honorable and Esteemed Court in the position of acting as a “super legislature” then Respondents appear to be guilty right along with appellant in making

this request. Respondent's contend (Respondent's brief 9-10) that the (R.S.Mo. 577.023.1(5)(a) convicted offender who goes through intensive treatment is less likely to reoffend etc., and this is how it is rationally related to the L.D.P. process. Appellant could be mistaken in his interpretation, but it appears that this (treatment) rational basis argument standing alone would require some review, even if appellant had not submitted it as an issue.

Appellant has searched a vast amount of case law looking for answers to what the lack of alternate treatment options and factual considerations might be under this scenario. Unfortunately, appellant has not come up with any guidance from other Courts, but if he were asked to take a wild guess, he would assume it could be construed as an equal protection violation also, because it fails to afford an equal amount of due process to the indigent. It appears that this might be a matter of first impression since Missouri could be the only state who mandates certain DWI offenders to attend a DWI Court/Docket to receive an L.D.P.

In addition, if the DWI Court/Docket discriminates against the poverty stricken and only can serve the interest of the wealthy, then the data used to support their conclusion in regards to recidivism rates might be miscalculated and ultimately improper, because it excludes indigents from the survey.

Traditionally, the wealthy and affluent have more opportunities than the poor. Assuming Respondent's are correct, and DWI courts reduce recidivism rates drastically and are basically the gold standard in rehabilitation, if the poor were excluded from it's

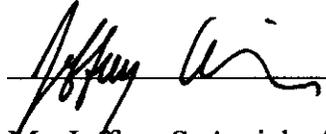
availability, it would naturally and automatically increase their odds towards re-offending and non-rehabilitation. Then when you add the fact that they have zero ability to legally drive for 10 years, now it seems like they are figuratively starting off with one shackle on. In sporting circles, they might call this type of lineup a favored and underdog. Under this scenario, I don't think any reasonable person would venture out and say that the odds each will not re-offend, and will attain a successful rehabilitation are even/equal.

Moreover, the state has a vested/pecuniary interest in the outcome of the DWI Court/Docket, because it adds to the Judicial coffers' and lessens the costly burden of incarcerating offenders, if they are less likely to re-offend. Again, appellant views the DWI Court/Docket as a remarkably good thing for everyone who can get involved. What appellant disagrees with, and takes argument against, is the fact that indigents are denied access and then are prohibited from having the L.D.P. inquiry, consider any alternative treatments, or corresponding facts, especially when the state has a vested interest. The state should not be allowed to have it both ways. Either they should allow indigents into DWI Court, or the Court should be allowed to consider other treatment options and corresponding facts in the L.D.P. eligibility of the offenders who are convicted under R.S.Mo. 577.023.1(5)(a).

### **CONCLUSION**

**WHEREFORE**, Appellant requests that this Honorable Court rule that he is eligible to receive a limited driving privilege based on the foregoing reasons.

RESPECTFULLY SUBMITTED,

  
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Mr. Jeffrey S. Amick, Appellant, Pro Se

**CERTIFICATE OF SERVICE AND COMPLIANCE**

On this 4th day of March, 2014, 1 standard and 1 (virus free) electronic copy (usb flash drive -word format) of Appellant's Reply Brief and Appellant's Reply Brief Appendix was mailed first class postage prepaid to Respondent's Counsel Daniel N. McPherson at P.O. Box 899, Jefferson City, Mo. 65102.

Appellant asserts that this certification includes the information required by Mo. Ct. Rule 55.03, complies with the limitations contained in Mo. Ct. R. 84.06(b) and the word count is 3,820 (which does not exceed the 7,750 allowed words) prepared in microsoft word format with a Times New Roman 13 (excluding cover page) font. Lastly, Appellant asserts that the electronic copy (usb flash drive-word format) that accompanied Appellant's brief is virus free.

  
\_\_\_\_\_  
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**Appellant's Reply Brief Appendix**

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courts in Missouri. Of the 3,475 individuals participating in treatment courts statewide, 882 were in DWI court programs.

“We started planning the DWI Court in Stone County in 2009 and it became operational in 2010,” Judge Blankenship said. “The drug court concept has a lot of different variations and spin-offs. DWI courts are one of the very successful companion courts. Stone County’s DWI court started as a component part of the county’s drug court, but we saw sufficient numbers to support it as a docket. The program has 15-25 people participating at one time.”

Adults who graduate from DWI court programs have a recidivism rate of slightly more than six percent. By contrast, the recidivism rate for individuals failing to complete the program is almost three times that amount – 18 percent. These numbers are even more impressive when one compares the cost of treatment (about \$3,000 annually per individual) with the cost of incarceration (\$16,000 per year per person).

The Department of Mental Health’s Division of Behavioral Health certifies agencies to provide services to people with a traffic offense related to abuse of either alcohol or drugs. The Substance Abuse Traffic Offender Program (SATOP) serves more than 30,000 DWI offenders annually. Those who successfully complete the DWI Court program will receive a SATOP completion form, as required by law, in order to have their driver’s license reinstated.

In Greene County, everyone who has been charged with a felony DWI is referred to the DWI court for a preliminary assessment by a probation officer and a SATOP screening. The assessment determines: 1) whether the DWI court guidelines have been met; 2) the severity of the person’s alcohol problem; and 3) what services may be needed by that individual. The defense attorney and the sentencing judge are then given the screening results. There is no free ride for the individuals participating in the DWI court, as expenses for the SATOP assessment and program fees, along with the DWI court fees, are approximately \$3,200. This cost must be paid by the participant as one of the requirements of successfully completing the program.

Some DWI court participants are given medications such as naltrexone or Vivitrol to help them maintain sobriety. “We usually have eight to 12 people on medications that tend to reduce cravings. It just basically allows them to concentrate on their treatment,” said Judge Blankenship.

“The more that we know about brain chemistry, this

is truly becoming the best practice,” said Commissioner Davis. “The guys and gals who are taking this are telling me it is the most incredible thing they have ever taken. It blocks the cravings. Those who are truly addicted think of nothing but the next drink. This [medication] calms the brain and calms the cravings to allow them to focus on their treatment.”

What happens if there is a relapse? “We understand that we are dealing with alcoholics and people whose behavior has been driven by their addiction,” said Judge Blankenship. “We understand that they will relapse and they will have problems with the program. The team is prepared to respond to that behavior with evidence-based, proven strategies designed to help them change their behavior. If they ultimately fail, they are referred to traditional criminal court for a traditional response.”

While such failures are rare, they do occur from time. Still – perhaps indicative of the hope these programs offer to participants – those who administer them prefer to focus on the positive.

“Drug courts are still courts of law that observe due process.”

– Hon. Alan Blankenship

“Our very first DWI court graduate had multiple felony DWI cases and was imprisoned in Michigan for two years,” said Judge Blankenship. “Today, she is about three and a half years sober, is a frequent invited speaker at drug court and drug court-type conferences nationally, and is working on a degree in psychology with the intention of becoming a substance abuse counselor.”

## MENTAL HEALTH TREATMENT COURT

In late 2011, Missouri had 11 mental health treatment courts. These courts may serve as a pre-plea or post-plea diversion program and deal with a person with a DSM-IV-TR Axis I diagnosis who has been charged or convicted of either a felony or misdemeanor. Axis I disorders include schizophrenia, anxiety disorders, major mood disorders, bipolar disorder, post-traumatic stress syndrome (PTSD), attention deficit hyperactivity disorder (ADHD), or other disorders.

Prior to the establishment of mental health courts, those suffering from mental illness would often repeatedly cycle through courtrooms and be incarcerated in facilities ill-equipped to address their needs or provide adequate treatment.

The criminal justice system was not designed to provide mental health treatment; its main purposes

AZ

From the beginning, life wasn't easy for Megan Crisp. Bounced from foster home to group home because of her mother's drug use, she was left to fend for herself by age 18.

Despite a fervent wish to avoid taking the path chosen by her mother, she began using drugs when she was 16. By age 20, she had given birth to a son, who was eventually taken away from her. She then used drugs throughout her second pregnancy. When the baby was born, the hospital conducted a newborn crisis assessment and, as required by state law, advised authorities.

When Megan eventually wound up in the Jackson County Family Drug Court, one of several types of

What are treatment courts such as the one that helped Megan reclaim her life? They are judicially-supervised dockets designed to help individuals with substance abuse problems – either drugs or alcohol – become productive members of society. Participants “are regularly and randomly tested for drug use, required to appear frequently in court for the judge to review their progress, rewarded for doing well and sanctioned for not living up to their obligations.”<sup>1</sup>

As of May 31, 2013, there were a total of 132 treatment court programs in Missouri: 90 adult drug courts, seven juvenile drug courts, 12 family drug/treatment courts, 18 DWI courts, four veterans' courts, and one reintegration court (see map on page 9).<sup>2</sup>

As Missouri marks the 20th anniversary of its first treatment court, proponents of these programs say they:

- Offer a proven, cost-effective method for diverting offenders from incarceration;
- Lower the recidivism rate of offenders;
- Allow offenders to remain in their communities, support their families, and pay taxes;
- Reduce the number of babies born addicted; and
- Lower crime rates and the need for foster care, and ensure that child support payments are made.

Statistics would seem to bear out the truth of these arguments. Figures released by the Missouri Drug Courts Coordinating Commission – an entity created by the state legislature to oversee the allocation of resources to treatment courts – show (as of June 1, 2013) that the state's various treatment programs have more than 3,400 participants. The graduation rate for all programs is more

specialty courts created in jurisdictions across the state, she took advantage of a variety of services – including parenting classes – in addition to those dealing directly with her addiction. “They had a foundation put in place to where I could actually have a chance in life,” she said.

Megan successfully completed the family drug court program and is now in college, where she is an honor student pursuing a degree in graphic design. She is giving back to the community by helping many of the same organizations that reached out to her at her time of need.

than 50 percent, with a retention rate greater than 60 percent.

The commission notes that potential incarceration cost savings or cost avoidance for 2,707 adult offenders diverted from state prisons is approximately \$27 million. Fiscal 2013 average incarceration costs are \$20,870 per year per person, while treatment court costs are \$6,190 per year per person.

Since their inception, the commission adds, Missouri treatment courts have had more than 12,900 graduates – with 603 drug-free babies born to treatment court participants.<sup>3</sup>

“[Treatment courts] reduce crime, they reduce criminal behavior, [and] they are far and away the most effective criminal justice response to addiction-driven behavior,” said Stone County Associate Circuit Judge Alan Blankenship, who oversees that county's drug and DWI courts.<sup>4</sup>

“From a moral, a fiscal and a law-and-order perspective,” said then-Chief Justice William Ray Price in 2011, “drug courts, DWI courts, juvenile diversion programs, veterans' courts, reentry courts and community supervision strategies are better investments of taxpayer money, for their target populations, than prisons.”<sup>5</sup>

## BORN OF NECESSITY, GROWN BY SUCCESS

Treatment courts in America were largely born of necessity.

During the mid-1980s, many state and local criminal justice systems [became] inundated with felony drug cases. Court dockets became overcrowded with drug cases and drug-involved

**matter of fact.** A matter involving a judicial inquiry into the truth of alleged facts. — Also termed *matter in deed*.

**matter of form.** A matter concerned only with formalities or noncritical characteristics <the objection that the motion was incorrectly titled related to a matter of form>. Cf. *matter of substance*.

**matter of law.** A matter involving a judicial inquiry into the applicable law.

**matter of record.** A matter that has been entered on a judicial or other public record and therefore can be proved by producing that record.

**matter of substance.** A matter concerning the merits or critical elements, rather than mere formalities <the party objected because the motion was based on a repealed statute that related to a matter of substance>. Cf. *matter of form*.

**new matter.** A matter not previously raised by either party in the pleadings, usu. involving new issues with new facts to be proved.

**special matter.** *Common-law pleading.* Out-of-the-ordinary evidence that a defendant is allowed to enter, after notice to the plaintiff, under a plea of the general issue.

**matter in controversy.** See AMOUNT IN CONTROVERSY.

**matter of.** See IN RE.

**matter of course.** Something done as a part of a routine process or procedure.

**mature, vb.** (Of a debt or obligation) to become due <the bond matures in ten years>. [Cases: Bills and Notes ⇨129. C.J.S. *Bills and Notes; Letters of Credit* §§ 86-89, 91-99.] — **maturity, n.** — **mature, adj.**

**matured claim.** See CLAIM (3).

**mature-minor doctrine.** *Family law.* A rule holding that an adolescent, though not having reached the age of majority, may make decisions about his or her health and welfare if the adolescent demonstrates an ability to articulate reasoned preferences on those matters. • The mature-minor doctrine was recognized as constitutionally protected in certain medical decisions (esp. those related to abortion rights) in *Planned Parenthood of Cent. Missouri v. Danforth*, 428 U.S. 52, 96 S.Ct. 2831 (1976). Not all states recognize the common-law mature-minor doctrine. Cf. PARENTHOOD-CONSENT STATUTE.

**maturity date.** See *date of maturity* under DATE.

**maturity value.** The amount that is due and payable on an obligation's maturity date.

**maugre (maw-gəɪ).** *prep. Archaic.* Despite <the witness may testify *maugre* counsel's objection>.

**maxim (mak-sim).** A traditional legal principle that has been frozen into a concise expression. • Examples are "possession is nine-tenths of the law" and  *caveat emptor* ("let the buyer beware"). — Also termed *legal maxim*.

**maximalist retributivism.** See RETRIBUTIVISM.

**maximum cure.** *Maritime law.* The point at which a seaman who is injured or sick has stabilized, and no additional medical treatment will improve the sea-

man's condition. • A shipowner's obligation to provide maintenance and cure to a sick or injured seaman usu. continues until the seaman has reached maximum cure. *Farrell v. United States*, 336 U.S. 511, 69 S.Ct. 707 (1949); *Vella v. Ford Motor Co.*, 421 U.S. 1, 95 S.Ct. 1381 (1975). See CURE (2); MAINTENANCE AND CURE. [Cases: Seamen ⇨11(6). C.J.S. *Seamen* §§ 124-126, 133.]

**maximum medical improvement.** The point at which an injured person's condition stabilizes, and no further recovery or improvement is expected, even with additional medical intervention. • This term is most often used in the context of a workers'-compensation claim. An injured employee usu. receives temporary benefits until reaching maximum medical improvement, at which time a determination can be made about any permanent disability the employee has suffered and any corresponding benefits the employee should receive. — Abbr. MMI. [Cases: Workers' Compensation ⇨868. C.J.S. *Workmen's Compensation* §§ 570-573.]

**maximum sentence.** See SENTENCE.

**may, vb.** 1. To be permitted to <the plaintiff may close>. [Cases: Statutes ⇨227. C.J.S. *Statutes* §§ 362-369.] 2. To be a possibility <we may win on appeal>. Cf. CAN. 3. Loosely, is required to; shall; must <if two or more defendants are jointly indicted, any defendant who so requests may be tried separately>. • In dozens of cases, courts have held *may* to be synonymous with *shall* or *must*, usu. in an effort to effectuate legislative intent.

**mayhem (may-hem), n.** 1. The crime of maliciously injuring a person's body, esp. to impair or destroy the victim's capacity for self-defense. • Modern statutes usu. treat this as a form of aggravated battery. See BATTERY. Cf. *serious bodily injury* under INJURY. [Cases: Mayhem ⇨1. C.J.S. *Mayhem* §§ 2-6.]

"Mayhem, according to the English common law, is maliciously depriving another of the use of such of his members as may render him less able, in fighting, either to defend himself or to annoy his adversary. It is a felony." Rollin M. Perkins & Ronald N. Boyce, *Criminal Law* 239 (3d ed. 1982).

2. Violent destruction. 3. Rowdy confusion or disruption. — **maim** (for sense 1), *vb.*

**May it please the court.** An introductory phrase that lawyers use when first addressing a court, esp. when presenting oral argument to an appellate court.

**mayn (mayn), n.** [Law French] *Hist.* A hand; handwriting.

**maynover (mə-noo-vər or may-noh-vər), n.** [Law French] *Hist.* A work by hand; something produced by manual labor.

**mayor, n.** An official who is elected or appointed as the chief executive of a city, town, or other municipality. [Cases: Municipal Corporations ⇨168. C.J.S. *Municipal Corporations* § 370.] — **mayoral (may-ər-əl), adj.**

**mayoralty (may-ər-əl-tee).** The office or dignity of a mayor. — Also termed *mayorship*.

**mayor of the staple.** *Hist.* A person appointed to take recognizances of debt between staple merchants, and

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*Missouri Revised Statutes*

**Chapter 478  
Circuit Courts  
Section 478.007**

August 28, 2013

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**DWI, alternative disposition of cases, docket or court may be established--private probation services, when (Jackson County).**

478.007. 1. Any circuit court, or any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants with a county municipal court established under section 66.010, may establish a docket or court to provide an alternative for the judicial system to dispose of cases in which a person has pleaded guilty to driving while intoxicated or driving with excessive blood alcohol content and:

- (1) The person was operating a motor vehicle with at least fifteen-hundredths of one percent or more by weight of alcohol in such person's blood; or
- (2) The person has previously pleaded guilty to or has been found guilty of one or more intoxication-related traffic offenses as defined by section 577.023; or
- (3) The person has two or more previous alcohol-related enforcement contacts as defined in section 302.525\*.

2. This docket or court shall combine judicial supervision, drug testing, continuous alcohol monitoring, substance abuse traffic offender program compliance, and treatment of DWI court participants. The court may assess any and all necessary costs for participation in DWI court against the participant. Any money received from such assessed costs by a court from a defendant shall not be considered court costs, charges, or fines. This docket or court may operate in conjunction with a drug court established pursuant to sections 478.001 to 478.006.

3. If the division of probation and parole is otherwise unavailable to assist in the judicial supervision of any person who wishes to enter a DWI court, a court-approved private probation service may be utilized by the DWI court to fill the division's role. In such case, any and all necessary additional costs may be assessed against the participant. No person shall be rejected from participating in DWI court solely for the reason that the person does not reside in the city or county where the applicable DWI court is located but the DWI court can base acceptance into a treatment court program on its ability to adequately provide services for the person or handle the additional caseload.

(L. 2010 H.B. 1695, et al., A.L. 2013 S.B. 100 merged with S.B. 327)

\*Section 302.525 was repealed by S.B. 23, 2013

**Chapter 577**  
**Public Safety Offenses**  
**Section 577.023**

August 28, 2013

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**Aggravated, chronic, persistent and prior offenders--enhanced penalties--  
imprisonment requirements, exceptions--procedures--definitions.**

577.023. 1. For purposes of this section, unless the context clearly indicates otherwise:

(1) An "aggravated offender" is a person who:

(a) Has pleaded guilty to or has been found guilty of three or more intoxication-related traffic offenses; or

(b) Has pleaded guilty to or has been found guilty of one or more intoxication-related traffic offense and, in addition, any of the following: involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section 565.024; murder in the second degree under section 565.021, where the underlying felony is an intoxication-related traffic offense; or assault in the second degree under subdivision (4) of subsection 1 of section 565.060; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082;

(2) A "chronic offender" is:

(a) A person who has pleaded guilty to or has been found guilty of four or more intoxication-related traffic offenses; or

(b) A person who has pleaded guilty to or has been found guilty of, on two or more separate occasions, any combination of the following: involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section 565.024; murder in the second degree under section 565.021, where the underlying felony is an intoxication-related traffic offense; assault in the second degree under subdivision (4) of subsection 1 of section 565.060; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082; or

(c) A person who has pleaded guilty to or has been found guilty of two or more intoxication-related traffic offenses and, in addition, any of the following: involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section 565.024; murder in the second degree under section 565.021, where the underlying felony is an intoxication-related traffic offense; assault in the second degree under subdivision (4) of subsection 1 of section 565.060; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082;

(3) "Continuous alcohol monitoring", automatically testing breath, blood, or transdermal alcohol concentration levels and tampering attempts at least once every hour, regardless of the location of the person who is being monitored, and regularly transmitting the data. Continuous alcohol monitoring shall be considered an electronic monitoring service under subsection 3 of section 217.690;

(4) An "intoxication-related traffic offense" is driving while intoxicated, driving with excessive blood alcohol content, involuntary manslaughter pursuant to subdivision (2) or (3) of subsection 1 of section 565.024, murder in the second degree under section 565.021, where the underlying felony is an intoxication-related traffic offense, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, assault of a law enforcement officer in the second degree pursuant to subdivision (4) of subsection 1 of section 565.082, or driving under the influence of alcohol or drugs in violation of state law or a county or municipal ordinance;

(5) A "persistent offender" is one of the following:

(a) A person who has pleaded guilty to or has been found guilty of two or more intoxication-related traffic offenses;

(b) A person who has pleaded guilty to or has been found guilty of involuntary manslaughter pursuant to subdivision (2) or (3) of subsection 1 of section 565.024, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, assault of a law enforcement officer in the second degree pursuant to subdivision (4) of subsection 1 of section 565.082; and

(6) A "prior offender" is a person who has pleaded guilty to or has been found guilty of one intoxication-related traffic offense, where such prior offense occurred within five years of the occurrence of the intoxication-related traffic offense for which the person is charged.

2. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a prior offender shall be guilty of a class A misdemeanor.

3. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a persistent offender shall be guilty of a class D felony.

4. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or section 577.012 who is alleged and proved to be an aggravated offender shall be guilty of a class C felony.

5. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or section 577.012 who is alleged and proved to be a chronic offender shall be guilty of a class B felony.

6. No state, county, or municipal court shall suspend the imposition of sentence as to a prior offender, persistent offender, aggravated offender, or chronic offender under this

section nor sentence such person to pay a fine in lieu of a term of imprisonment, section 557.011 to the contrary notwithstanding.

(1) No prior offender shall be eligible for parole or probation until he or she has served a minimum of ten days imprisonment:

(a) Unless as a condition of such parole or probation such person performs at least thirty days involving at least two hundred forty hours of community service under the supervision of the court in those jurisdictions which have a recognized program for community service; or

(b) The offender participates in and successfully completes a program established pursuant to section 478.007 or other court-ordered treatment program, if available, and as part of either program, the offender performs at least thirty days of community service under the supervision of the court.

(2) No persistent offender shall be eligible for parole or probation until he or she has served a minimum of thirty days imprisonment:

(a) Unless as a condition of such parole or probation such person performs at least sixty days involving at least four hundred eighty hours of community service under the supervision of the court; or

(b) The offender participates in and successfully completes a program established pursuant to section 478.007 or other court-ordered treatment program, if available, and as part of either program, the offender performs at least sixty days of community service under the supervision of the court.

(3) No aggravated offender shall be eligible for parole or probation until he or she has served a minimum of sixty days imprisonment.

(4) No chronic offender shall be eligible for parole or probation until he or she has served a minimum of two years imprisonment.

In addition to any other terms or conditions of probation, the court shall consider, as a condition of probation for any person who pleads guilty to or is found guilty of an intoxication-related traffic offense, requiring the offender to abstain from consuming or using alcohol or any products containing alcohol as demonstrated by continuous alcohol monitoring or by verifiable breath alcohol testing performed a minimum of four times per day as scheduled by the court for such duration as determined by the court, but not less than ninety days. The court may, in addition to imposing any other fine, costs, or assessments provided by law, require the offender to bear any costs associated with continuous alcohol monitoring or verifiable breath alcohol testing.

7. The state, county, or municipal court shall find the defendant to be a prior offender, persistent offender, aggravated offender, or chronic offender if:

(1) The indictment or information, original or amended, or the information in lieu of an indictment pleads all essential facts warranting a finding that the defendant is a prior offender or persistent offender; and

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(2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding beyond a reasonable doubt the defendant is a prior offender, persistent offender, aggravated offender, or chronic offender; and

(3) The court makes findings of fact that warrant a finding beyond a reasonable doubt by the court that the defendant is a prior offender, persistent offender, aggravated offender, or chronic offender.

8. In a jury trial, the facts shall be pleaded, established and found prior to submission to the jury outside of its hearing.

9. In a trial without a jury or upon a plea of guilty, the court may defer the proof in findings of such facts to a later time, but prior to sentencing.

10. The defendant shall be accorded full rights of confrontation and cross-examination, with the opportunity to present evidence, at such hearings.

11. The defendant may waive proof of the facts alleged.

12. Nothing in this section shall prevent the use of presentence investigations or commitments.

13. At the sentencing hearing both the state, county, or municipality and the defendant shall be permitted to present additional information bearing on the issue of sentence.

14. The pleas or findings of guilt shall be prior to the date of commission of the present offense.

15. The court shall not instruct the jury as to the range of punishment or allow the jury, upon a finding of guilt, to assess and declare the punishment as part of its verdict in cases of prior offenders, persistent offenders, aggravated offenders, or chronic offenders.

16. Evidence of a prior conviction, plea of guilty, or finding of guilt in an intoxication-related traffic offense shall be heard and determined by the trial court out of the hearing of the jury prior to the submission of the case to the jury, and shall include but not be limited to evidence received by a search of the records of the Missouri uniform law enforcement system, including criminal history records from the central repository or records from the driving while intoxicated tracking system (DWITS) maintained by the Missouri state highway patrol, or the certified driving record maintained by the Missouri department of revenue. After hearing the evidence, the court shall enter its findings thereon. A plea of guilty or a finding of guilt followed by incarceration, a fine, a suspended imposition of sentence, suspended execution of sentence, probation or parole or any combination thereof in any intoxication-related traffic offense in a state, county or municipal court or any combination thereof shall be treated as a prior plea of guilty or finding of guilt for purposes of this section.

(L. 1982 S.B. 513, A.L. 1983 S.B. 318 & 135, A.L. 1991 S.B. 125 & 341, A.L. 1993 S.B. 167 merged with S.B. 180, A.L. 1998 S.B. 634, A.L. 2001 H.B. 302 & 38, A.L. 2005 H.B. 353 merged with H.B. 972 and S.B. 37, et al. merged with H.B. 353, A.L. 2005 1st Ex. Sess. H.B. 2, A.L. 2008 H.B. 1715, A.L. 2008 H.B. 1715 merged with S.B. 930 &

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947, A.L. 2009 H.B. 62, A.L. 2010 H.B. 1695, et al., A.L. 2011 H.B. 199, A.L. 2012 S.B. 480)

(2005) Provision of section enhancing driving while intoxicated charge from misdemeanor to felony, by including prior DWI charges only from courts in which the judge was a lawyer, is constitutional under the Equal Protection and Due Process clauses. State v. Pike, 162 S.W.3d 464 (Mo.banc).

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*Missouri Revised Statutes*

**Chapter 302**  
**Drivers' and Commercial Drivers' Licenses**  
**Section 302.309**

August 28, 2013

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**Return of license, when--limited driving privilege, when granted, application, when denied--judicial review of denial by director of revenue--rulemaking.**

302.309. 1. Whenever any license is suspended pursuant to sections 302.302 to 302.309, the director of revenue shall return the license to the operator immediately upon the termination of the period of suspension and upon compliance with the requirements of chapter 303.

2. Any operator whose license is revoked pursuant to these sections, upon the termination of the period of revocation, shall apply for a new license in the manner prescribed by law.

3. (1) All circuit courts, the director of revenue, or a commissioner operating under section 478.007 shall have jurisdiction to hear applications and make eligibility determinations granting limited driving privileges, except as provided under subdivision (8) of this subsection. Any application may be made in writing to the director of revenue and the person's reasons for requesting the limited driving privilege shall be made therein.

(2) When any court of record having jurisdiction or the director of revenue finds that an operator is required to operate a motor vehicle in connection with any of the following:

- (a) A business, occupation, or employment;
- (b) Seeking medical treatment for such operator;
- (c) Attending school or other institution of higher education;
- (d) Attending alcohol or drug treatment programs;
- (e) Seeking the required services of a certified ignition interlock device provider; or
- (f) Any other circumstance the court or director finds would create an undue hardship on the operator,

the court or director may grant such limited driving privilege as the circumstances of the case justify if the court or director finds undue hardship would result to the individual, and while so operating a motor vehicle within the restrictions and limitations of the limited driving privilege the driver shall not be guilty of operating a motor vehicle without a valid license.

(3) An operator may make application to the proper court in the county in which such operator resides or in the county in which is located the operator's principal place of

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business or employment. Any application for a limited driving privilege made to a circuit court shall name the director as a party defendant and shall be served upon the director prior to the grant of any limited privilege, and shall be accompanied by a copy of the applicant's driving record as certified by the director. Any applicant for a limited driving privilege shall have on file with the department of revenue proof of financial responsibility as required by chapter 303. Any application by a person who transports persons or property as classified in section 302.015 may be accompanied by proof of financial responsibility as required by chapter 303, but if proof of financial responsibility does not accompany the application, or if the applicant does not have on file with the department of revenue proof of financial responsibility, the court or the director has discretion to grant the limited driving privilege to the person solely for the purpose of operating a vehicle whose owner has complied with chapter 303 for that vehicle, and the limited driving privilege must state such restriction. When operating such vehicle under such restriction the person shall carry proof that the owner has complied with chapter 303 for that vehicle.

(4) No limited driving privilege shall be issued to any person otherwise eligible under the provisions of paragraph (a) of subdivision (6) of this subsection on a license revocation resulting from a conviction under subdivision (9) of subsection 1 of section 302.302, or a license denial under paragraph (a) or (b) of subdivision (8) of this subsection, or a license revocation under paragraph (g) of subdivision (6) of this subsection, until the applicant has filed proof with the department of revenue that any motor vehicle operated by the person is equipped with a functioning, certified ignition interlock device as a required condition of limited driving privilege. The ignition interlock device required for obtaining a limited driving privilege under paragraph (a) or (b) of subdivision (8) of this subsection shall have photo identification technology and global positioning system features.

(5) The court order or the director's grant of the limited or restricted driving privilege shall indicate the termination date of the privilege, which shall be not later than the end of the period of suspension or revocation. The court order or the director's grant of the limited or restricted driving privilege shall also indicate whether a functioning, certified ignition interlock device is required as a condition of operating a motor vehicle with the limited driving privilege. A copy of any court order shall be sent by the clerk of the court to the director, and a copy shall be given to the driver which shall be carried by the driver whenever such driver operates a motor vehicle. The director of revenue upon granting a limited driving privilege shall give a copy of the limited driving privilege to the applicant. The applicant shall carry a copy of the limited driving privilege while operating a motor vehicle. A conviction which results in the assessment of points pursuant to section 302.302, other than a violation of a municipal stop sign ordinance where no accident is involved, against a driver who is operating a vehicle pursuant to a limited driving privilege terminates the privilege, as of the date the points are assessed to the person's driving record. If the date of arrest is prior to the issuance of the limited

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driving privilege, the privilege shall not be terminated. Failure of the driver to maintain proof of financial responsibility, as required by chapter 303, or to maintain proof of installation of a functioning, certified ignition interlock device, as applicable, shall terminate the privilege. The director shall notify by ordinary mail the driver whose privilege is so terminated.

(6) Except as provided in subdivision (8) of this subsection, no person is eligible to receive a limited driving privilege whose license at the time of application has been suspended or revoked for the following reasons:

(a) A conviction of violating the provisions of section 577.010 or 577.012, or any similar provision of any federal or state law, or a municipal or county law where the judge in such case was an attorney and the defendant was represented by or waived the right to an attorney in writing, until the person has completed the first thirty days of a suspension or revocation imposed pursuant to this chapter;

(b) A conviction of any felony in the commission of which a motor vehicle was used;

(c) Ineligibility for a license because of the provisions of subdivision (1), (2), (4), (5), (6), (7), (8), (9), (10) or (11) of subsection 1 of section 302.060;

(d) Because of operating a motor vehicle under the influence of narcotic drugs, a controlled substance as defined in chapter 195, or having left the scene of an accident as provided in section 577.060;

(e) Due to a revocation for failure to submit to a chemical test pursuant to section 577.041 or due to a refusal to submit to a chemical test in any other state, unless such person has completed the first ninety days of such revocation and files proof of installation with the department of revenue that any vehicle operated by such person is equipped with a functioning, certified ignition interlock device, provided the person is not otherwise ineligible for a limited driving privilege;

(f) Due to a suspension pursuant to subsection 2 of section 302.525 and who has not completed the first thirty days of such suspension, provided the person is not otherwise ineligible for a limited driving privilege; or

(g) Due to a revocation pursuant to subsection 2 of section 302.525 if such person has not completed the first forty-five days of such revocation, provided the person is not otherwise ineligible for a limited driving privilege.

(7) No person who possesses a commercial driver's license shall receive a limited driving privilege issued for the purpose of operating a commercial motor vehicle if such person's driving privilege is suspended, revoked, cancelled, denied, or disqualified. Nothing in this section shall prohibit the issuance of a limited driving privilege for the purpose of operating a noncommercial motor vehicle provided that pursuant to the provisions of this section, the applicant is not otherwise ineligible for a limited driving privilege.

(8) (a) Provided that pursuant to the provisions of this section, the applicant is not otherwise ineligible for a limited driving privilege, a circuit court or the director may, in the manner prescribed in this subsection, allow a person who has had such person's

license to operate a motor vehicle revoked where that person cannot obtain a new license for a period of ten years, as prescribed in subdivision (9) of subsection 1 of section 302.060, to apply for a limited driving privilege pursuant to this subsection. Such person shall present evidence satisfactory to the court or the director that such person's habits and conduct show that the person no longer poses a threat to the public safety of this state. A circuit court shall grant a limited driving privilege to any individual who otherwise is eligible to receive a limited driving privilege, has filed proof of installation of a certified ignition interlock device, and has had no alcohol-related enforcement contacts since the alcohol-related enforcement contact that resulted in the person's license denial.

(b) Provided that pursuant to the provisions of this section, the applicant is not otherwise ineligible for a limited driving privilege or convicted of involuntary manslaughter while operating a motor vehicle in an intoxicated condition, a circuit court or the director may, in the manner prescribed in this subsection, allow a person who has had such person's license to operate a motor vehicle revoked where that person cannot obtain a new license for a period of five years because of two convictions of driving while intoxicated, as prescribed in subdivision (10) of subsection 1 of section 302.060, to apply for a limited driving privilege pursuant to this subsection. Such person shall present evidence satisfactory to the court or the director that such person's habits and conduct show that the person no longer poses a threat to the public safety of this state. Any person who is denied a license permanently in this state because of an alcohol-related conviction subsequent to a restoration of such person's driving privileges pursuant to subdivision (9) of section 302.060 shall not be eligible for limited driving privilege pursuant to the provisions of this subdivision. A circuit court shall grant a limited driving privilege to any individual who otherwise is eligible to receive a limited driving privilege, has filed proof of installation of a certified ignition interlock device, and has had no alcohol-related enforcement contacts since the alcohol-related enforcement contact that resulted in the person's license denial.

(9) A DWI docket or court established under section 478.007 may grant a limited driving privilege to a participant in or graduate of the program who would otherwise be ineligible for such privilege under another provision of law. The DWI docket or court shall not grant a limited driving privilege to a participant during his or her initial forty-five days of participation.

4. Any person who has received notice of denial of a request of limited driving privilege by the director of revenue may make a request for a review of the director's determination in the circuit court of the county in which the person resides or the county in which is located the person's principal place of business or employment within thirty days of the date of mailing of the notice of denial. Such review shall be based upon the records of the department of revenue and other competent evidence and shall be limited to a review of whether the applicant was statutorily entitled to the limited driving privilege.

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5. The director of revenue shall promulgate rules and regulations necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

(L. 1961 p. 487, A.L. 1965 p. 477, A.L. 1967 p. 410, A.L. 1977 S.B. 478, A.L. 1978 H.B. 1634, A.L. 1983 H.B. 713 Revision, A.L. 1984 S.B. 608 & 681, A.L. 1987 S.B. 230, A.L. 1989 1st Ex. Sess. H.B. 3, A.L. 1990 S.B. 567, A.L. 1991 S.B. 125 & 341, A.L. 1993 S.B. 167, A.L. 1996 H.B. 1169 & 1271 merged with S.B. 722, A.L. 1999 S.B. 19, A.L. 2001 H.B. 302 & 38, A.L. 2004 S.B. 1233, et al., A.L. 2008 S.B. 930 & 947, A.L. 2010 H.B. 1695, et al., A.L. 2012 H.B. 1402 and A.L. 2012 S.B. 480, A.L. 2013 S.B. 23)

Effective 7-05-13

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**CERTIFICATE OF SERVICE**

On this 4th day of March, 2014, 1 standard Copy of Appellant's Reply Brief Appendix was mailed first class postage prepaid to Respondent's Counsel Daniel N. McPherson at P.O. Box 899, Jefferson City, Mo. 65102.

A handwritten signature in black ink, appearing to read "Jeffrey S. Amick", is written over a horizontal line.

Mr. Jeffrey S. Amick, Appellant, Pro Se  
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