

Key Concepts

1. Periodic renewal of consent of the governed.
2. Concepts of Government will have brief explanation to give context for interpretation.
3. Presumption of Liberty, Government has no powers not explicitly granted in this constitution.
 4. Status Quo will not be disturbed without clear support of the people.
5. Statement not only of Government's Powers, but its responsibilities to the people.

MODEL CONSTITUTION FOR THE STATE OF MISSOURI

PREAMBLE

We, the people of Missouri, with profound reverence for the Supreme Ruler of the Universe, establish this Constitution as an expression of the terms under which we consent to be governed. If the government herein authorized should cease to abide by the terms of this Constitution, or if the people otherwise become persuaded that the existing government no longer serves our best interests, we retain not only the authority, but the responsibility, to dissolve that government and to institute a new one better suited to serve them and more inclined to protect our liberties; any acceptance of arbitrary, unauthorized, or oppressive power is absurd, slavish, and destructive of the good and happiness of humanity and is rejected by the people of this state.

ARTICLE I FUNDAMENTAL PRINCIPLES

Section 1. Missouri is a free and independent state, subject only to the Constitution of the United States. If the Constitution of the United States should ever be suspended or cease to operate, this Constitution shall remain in force unless and until the people of Missouri ratify a new governing document.

Section 2. All political authority under this Constitution derives from the people of this state and is founded upon their will only; the people do not yield their sovereignty to the agencies that serve them, and no government entity in this state may exercise any power unless it the people have expressly delegated that power to the government entity through this Constitution or through laws adopted by the General Assembly or an appropriate local legislative body.

Section 3. Should there be any doubt or ambiguity about whether the people have delegated a particular power to a government entity, courts shall resolve that doubt or ambiguity against the government entity; if the people wish to grant additional power to a government entity they may amend their laws or this Constitution to do so, but courts shall not presume that the people have given the government any power not expressly enumerated herein.

Section 4. The provisions of this Constitution are mandatory and self-enforcing; any person adversely affected by the violation of any of these provisions may bring their constitutional challenge before the courts.

Section 5. The essential purpose of government is to protect and maintain individual citizens' natural rights, the most basic of which are life, liberty, the ownership and use of private property, and the enjoyment of the gains of their own industry; when government does not secure these rights, it fails in its chief design.

Section 6. A frequent recurrence to these fundamental principles is essential to the security of individual rights and the perpetuation of a free society.

DECLARATION OF RIGHTS

Section 7. The enumeration in this Constitution of certain rights shall not be construed to deny other rights retained by the people and enforceable against the government; *provided*, the rights with which this Constitution is concerned are rights to be free from governmental interference in regard to the exercise of various forms of liberty. No person has a constitutional right to demand that their government must provide them money, goods, or resources except as compensation for harms inflicted by a government entity or for services the citizen has rendered pursuant to a contract with a government entity.

Section 8. Every person has the right to equal treatment under the law; no government entity may give special advantage or impose special disadvantage to any individual person or any group of persons. Any law that treats groups of people differently is presumptively invalid and may only be enforced if the government proves (1) that the distinction the law creates between groups of people is necessary to prevent a harm to society that is specifically identified and defined in the text of the law, (2) that the distinction the law makes between groups of people is directly related to harm the law seeks to prevent, and (3) that the group of people that the law subjects to additional restriction is no larger than necessary to prevent the harm the law seeks to prevent.

Section 9. Every person has a natural and infeasible right to engage in non-violent acts of religious worship and to obey dictates of their own conscience, as long as the exercise of these rights is unlikely to cause a specifically identified harm to a specifically identified person. No human authority can control or interfere with the rights of conscience, and no government is permitted to impose any sort of restriction, penalty, or otherwise unequal treatment on any person or organization on account of religious persuasion or belief; *provided*, this section shall not be construed to prevent the assignment of civil or criminal liability where a court of law determines that a religiously-motivated act has caused a specifically identified harm to a specifically identified person or group of persons.

Section 10. No government entity may declare or establish an official religion, nor may any government entity require citizens to engage in any form of religious worship or penalize them for failing to do so, or otherwise promote or give preference to any religious institution or system of worship, or any priest, minister, preacher or teacher of any sect, church, creed or denomination of religion; *provided*, the courts of this state are permitted to enforce contracts voluntarily made between citizens and religious persons or organizations. This provision shall not be construed to prevent religious persons or organizations from participating in government programs or services made available without regard to religion, nor to forbid individual government officials from making statements regarding their own faith or from allowing expressions of faith on any public property or at any government-sponsored events at which citizens are allowed to engage in non-religious forms of expression.

Section 11. Every person shall be free to say, write, publish, express, or otherwise communicate whatever they will on any subject; no government entity may pass or enforce any law, regulation, or policy that would impair the freedom of speech, no matter by what means communicated; *provided*, this section shall not prevent the assignment of civil or criminal liability where a court of law determines that a specific statement or expressive act has caused a specifically identified harm to a specifically identified person. In all suits and prosecutions for libel, slander, or defamation, the truth of the allegedly defamatory statement shall be an absolute defense and a jury, under direction of the court, shall determine the law and the facts.

Section 12. Every person has the right peaceably to associate or assemble with others who voluntarily assent to the association or assembly; no government entity may ever prevent citizens from such voluntary association or assembly; *provided*, this section shall not prevent the assignment of civil or criminal liability where a court of law determines that an association or assembly has caused a specifically identified harm to a specifically identified person or group of persons.

Section 13. Every person has the right to petition those invested with the powers of government for changes to the laws that govern them.

Section 14. Every person has the right to obtain, keep, use, and dispose of private property that they own, including any rain or sunlight that happens to fall on their property and any minerals under the surface of their property, in any manner they believe likely to increase their own happiness and well-being; *provided*, this section shall not prevent the assignment of civil or criminal liability where a court of law determines that a person's use or disposition of their own private property has caused one or more specifically identified harms to one or more specifically identified persons, nor shall it prevent the enforcement of private agreements in which a property owner has voluntarily accepted limits on the use of their property.

Section 15. Every legal resident of this state 18 years of age or older has the right to vote in all elections for government offices to whose authority the resident is subject; no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

Section 16. Every person in this state has the right to organize with fellow workers and to bargain, individually or collectively, with their employers through representatives of their own choosing; no government entity may inhibit or otherwise interfere with employees' efforts to bargain with employers, nor shall any government entity require any person to accept representation from a representative not of their choosing; provided, this provision does not require any employer against its will to bargain with or enter into any agreement with current or prospective employees.

Section 17. Every person 18 years of age or older has the right to keep, carry and use firearms, ammunition, and accessories common to the use of firearms and ammunition; this right shall not be abridged except for persons convicted of violent felonies or adjudicated by a court to have a mental disorder or mental infirmity that causes them to be a danger to themselves or others. No government entity has any authority to impose licensure, registration, or any special tax on the ownership, possession, sale or transfer of firearms and ammunition, nor may any government entity confiscate any firearms except those used in the commission of a felony; provided, the General Assembly may regulate the wearing of concealed weapons in public places or public buildings, but may not prohibit the open carrying of firearms.

Section 18. Every person has the right to enter into contracts in which the parties exchange knowledge, labor, property, money, or any other thing of value under mutually agreeable terms; the courts of this state shall enforce all contracts according to the terms agreed upon by the parties, unless it be shown that the agreement was procured by fraud or deception, or if the evidence shows that one of the parties did not understand those terms; *provided*, this section shall not require the courts to enforce any contract whose operation would violate the legal rights of those not a party to the contract.

Section 19. Every parent and legal guardian has a fundamental right to direct the upbringing, education, discipline and care of their own minor children without governmental interference; *provided*, this section shall not prevent courts from assigning custody of children to one parent or guardian in the event that the parents do not live together, nor shall this section prevent the removal of children from the custody and care of parents or guardians after a court of law has determined by clear and convincing evidence that the parent or guardian poses a clear and present danger to the child's health.

Section 20. Every resident of this state has the right to attend public meetings and to inspect and review public records in order to remain informed about how their public servants are using the authority the people have given them; this access to public records is crucial so that the people may maintain control over the government entities they have created. Government entities may require persons seeking public records to pay the actual costs incurred in making the records available for review, but must make all reasonable efforts to allow inspection of the requested records quickly and with minimal cost to the person making the request; any effort by a government official or employee to unreasonably delay or obstruct a person's review of public records shall be considered a violation of this provision. Where a government entity is accused of unreasonably delaying a person's review of public records, the question of whether a delay is reasonable shall be decided by a jury.

Section 21. Every person who has within this state suffered an injury to their person, property or character has the right to seek a remedy for their injury in the courts of this state; the courts shall administer justice without denial or undue delay.

Section 22. Every person has the right to trial by jury in all matters before a court requiring a determination of facts; provided, a jury for the trial of criminal and civil cases in courts not of record may consist of less than twelve citizens as may be prescribed by law, and a two-thirds majority of such number concurring may render a verdict in all such civil cases; in all civil cases in courts of record, three-fourths of the members of the jury concurring may render a verdict. In every criminal case any defendant may, with the assent of the court, waive their right to a jury trial and submit the trial of such case to the court, whose finding shall have the force and effect of a verdict of a jury.

Section 23. Every person has the right to the privacy and security of their persons, property, documents, and possessions. A government entity may only intrude upon a person's privacy or search their person, property, documents, or possessions if a court has issued a warrant (1) affirming that a law enforcement official has demonstrated by written oath or affirmation the existence of probable cause to believe that a search or seizure of a citizen, their property, or their possessions is reasonably necessary to discover or prevent a crime and (2) specifically

describing the place to be searched, or the person or thing to be seized; provided, this section shall not prevent law enforcement officials from monitoring communications, items, or behaviors that a member of the general public could perceive without any technological augmentation or assistance from a location where a member of the general public would have a right to be, nor shall it prevent law enforcement officials from engaging in an unwarranted search or seizure where they reasonably believe either that human health or safety is in eminent danger or that a warrant could not be obtained before the persons, places, or things to be searched or seized become unavailable. Any unwarranted search or seizure is presumptively unreasonable and the government entity that conducted an unwarranted search or seizure must prove the reasonableness of their actions; if the government entity fails to prove the reasonableness of an unwarranted search or seizure in light of the relevant circumstances, any evidence obtained therefrom shall be inadmissible in a court of law and any individuals responsible for the unreasonable search or seizure shall be subject to civil liability as well as punishments to be established by law.

Section 24. Every person has the right to remain silent regarding potentially incriminating information; no government entity may ever compel a person to make a statement or otherwise produce information that could incriminate themselves, nor may a party to any civil or criminal proceeding be penalized for refusing to offer testimony or otherwise produce information that could incriminate themselves.

REGARDING THE CRIMINAL PROCESS

Section 25. Every victim of a crime shall be entitled (1) to information about how the criminal justice system works and about the crime itself; (2) to prior notice of all public hearings and trials regarding prosecutions following from that crime; (3) to the opportunity to be heard at any hearing involving the sentencing or freedom of one convicted of the crime; (4) to restitution, which shall be enforceable in the same manner as any other civil cause of action, or as otherwise provided by law; (5) to reasonable protection from the defendant or any person acting on behalf of the defendant; and (6) to notice of any escape or other departure of a defendant from custody or confinement.

Section 26. A grand jury shall consist of twelve citizens, any nine of whom concurring may find an indictment; provided, no grand jury shall be convened except upon an order of a judge of a court having the power to try and determine felonies. When so assembled a grand jury shall have power to investigate and return indictments for all characters and grades of crime.

Section 27. No government entity shall pursue a misdemeanor or felony prosecution against a person other than by indictment or information, which shall be concurrent remedies; provided, this shall not prevent law enforcement officers from making arrests and conducting preliminary examination in any criminal case.

Section 28. Every person accused of a crime has the right to make reasonable bail, except for cases involving capital offenses, when the court finds clear and convincing evidence that the accused poses a serious risk of flight or harm to others.

Section 29. Every person accused of a crime shall have the right (1) to appear and present a defense, in person and by counsel; (2) to demand the nature and cause of the accusation; (3) to confront and question the witnesses against them face to face; (4) to compel the attendance of witnesses in their behalf; and (5) to have a speedy and public trial by an impartial jury. If, through no fault of the defendant, the government cannot initiate a trial within nine months of the defendant's arrest, the defendant must be released from custody; *provided*, the government may impose on the defendant such restrictions as are reasonably necessary to ensure the protection of others and the defendant's presence at trial.

Section 30. In any case wherein the accused is charged with a felony, if a trial court finds after conducting a hearing that necessary testimony must be preserved by taking the deposition of any witness within the state other than the defendant and their spouse, the state may take the deposition of such witness and either party may use the same at the trial, as in civil cases; provided, any court exercising this provision must make such orders as will fully protect the defendant's right to confront and cross-examine any witnesses against them. The state or county pursuing the prosecution shall pay reasonable personal and traveling expenses of defendant and their counsel.

Section 31. No government entity shall again put any person in jeopardy of life or liberty for the same offense after a jury has acquitted that person of criminal charges arising from a specific incident. If after a trial has been

conducted a jury fails to render a verdict, the court may at its discretion discharge the jury and commit or bail the prisoner pending another trial that must begin not more than nine months after the end of the first trial; *provided*, that if after a jury returns a verdict of guilty the judgment is found to have been based on a defective indictment or information, or if judgment on a verdict of guilty be reversed for error in law, the prisoner may be tried anew on a proper indictment or information, or according to the law.

Section 32. Every person convicted of a crime has the right to a punishment that is proportionate to their offense; no government entity may impose excessive fines, nor inflict cruel or unusual punishment.

Section 33. Treason against the state can consist only in levying war against it, or in willfully providing shelter or financial or material support to its declared enemies; a court may only convict a person of treason if presented with the testimony of two witnesses to the same overt act, or the defendant's voluntary confession in open court

Section 34. No conviction can work corruption of blood or forfeiture of estate; the General Assembly may never attain any person of treason or felony.

GENERAL RESTRICTIONS ON GOVERNMENT

Section 35. No government entity may enforce any law, order, or regulation that would deprive an individual of their life, their liberty or their ability to own or use their private property unless the individual citizen is given a fair and reasonable opportunity to challenge in court the propriety of the deprivation.

Section 36. No government entity may grant to any person, group of persons, organization, corporation, or industry legal privileges, immunities, protections, or benefits that are not available to all others similarly situated.

Section 37. No government entity may ever imprison any person on account of debt.

Section 38. No government entity may ever imprison any person without charging them with a specific crime.

Section 39. No government entity may ever enact or enforce a law that would require a citizen involuntarily to work for another person, with or without compensation.

Section 40. No government entity may ever enact or enforce a law that would impose civil or criminal penalties as a result of actions completed prior to the law's adoption.

Section 41. No government entity may ever enact or enforce a law that would alter the terms of or prevent the enforcement of contracts persons voluntarily entered into prior to the law's adoption; *provided*, this section shall not require courts to enforce unconscionable contracts or contracts that a court of law determines to have been induced by fraud.

Section 42. No government entity may prohibit any person from accepting payment for work that another person has asked them to provide; *provided*, this section shall not prevent the enforcement of laws prohibiting fraud or misleading business practices and it shall not entitle any person to be paid for work that another person has not asked them to provide.

Section 43. No government entity may seek injunction or civil penalties against a citizen for behaviors that could also constitute the basis for a criminal prosecution.

Section 44. No government entity may ever suspend the power of grand juries to inquire into the willful misconduct in office of public officers and to find indictments in connection therewith.

Section 45. No government entity may use the power of eminent domain unless: (1) the property to be taken will be owned and exclusively possessed by the public; (2) a jury concludes that the condemning authority has demonstrated beyond a reasonable doubt that the taking is necessary for a specifically declared public use, without regard to any governmental declaration that the taking is necessary; (3) a jury, after considering all relevant evidence, has determined the financial losses that the property's owner is likely to suffer as a result of the taking,

without regard to any alleged or potential increase in the value of any property not taken; and (4) the condemning authority has paid that amount to the owner or into court on behalf of the owner therein divested. No part of any property acquired through eminent domain shall be sold or leased to a private party at any time less than forty years from the date of the taking unless the party from whom the property was taken, or their heirs or assigns, has first been given three months' notice that they may reclaim title to the property in exchange for a sum no greater than the compensation awarded at the time of the taking, plus any costs incurred for improvements made to the property.

Section 46. No government entity shall ever use eminent domain for private use, with or without compensation. When any attempt is made to take private property for a use alleged to be public, the government must bear the burden of proving beyond any reasonable doubt that the contemplated use is public.

Section 47. No government entity may ever declare martial law, nor may any government entity require a citizen to quarter any soldier or police officer in any residence without the consent of the owner in time of peace, nor in time of war, unless in accordance with procedures established by the General Assembly; the military and police shall be always in strict subordination to the civil power.

Section 48. No legislative body or administrative agency may conduct a formal meeting at which any public business is discussed, decided, voted upon, or public policy formulated unless that meeting is open to the public and conducted in the English language; *provided*, nothing in this provision shall prevent a legislative body or administrative agency from translating such meetings into other languages, nor shall it require them to do so.

Section 49. Every document of any type that is (1) prepared, owned, used, or retained by any government entity and (2) relates to the conduct of government or the performance of any governmental or proprietary function shall be considered a public record and shall be written, recorded or transmitted in the English language; *provided*, nothing in this provision shall prevent a public governmental body from translating such documents into other languages, nor shall it require them to do so. The General Assembly may exempt specified categories of public records from public review and may also permit the redaction of certain information from public records before they are made available for public review, but may only do so in a bill approved by two-thirds of both houses of the legislature.

Section 50. In any case in which a person successfully challenges the constitutionality of any law, the courts shall award the prevailing party reasonable attorneys' fees and costs incurred in pursuit of the constitutional challenge. A court shall also order the appropriate government entity to financially compensate a person whose constitutional rights have been violated for any damages that person can prove directly resulted from the violation.

Section 51. In any case in which a person successfully challenges the constitutionality of an action a government official or employee has taken against them while acting under the color of any law, the courts shall determine whether the official or employee knew or should have known that their action was unconstitutional and, if so, the official shall immediately be divested of their office or employment and, in addition to damages the government may be required to pay for violating the person's constitutional rights, the officer or employee responsible for the violation shall be personally liable for damages caused by their unconstitutional action.

Section 52. The rights articulated in this Article, properly understood, do not conflict with each other; the courts of this state have an affirmative obligation to interpret these provisions in such a way that there is no conflict between or among any of the rights articulated in this Article.