

FIRST REGULAR SESSION

HOUSE BILL NO. 821

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES COOPER (Sponsor), POLLOCK AND SCHAD (Co-sponsors).

1841L.01I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 476, RSMo, by adding thereto twenty-three new sections relating to county courts in first class counties.

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

Section A. Chapter 476, RSMo, is amended by adding thereto twenty-three new sections, to be known as sections 476.900, 476.902, 476.904, 476.906, 476.908, 476.910, 476.912, 476.914, 476.916, 476.918, 476.920, 476.922, 476.924, 476.926, 476.928, 476.930, 476.932, 476.934, 476.936, 476.938, 476.940, 476.942, and 476.944, to read as follows:

476.900. Violations of county ordinances in first class counties which choose to establish a county court shall be heard and determined only before divisions of the circuit court as hereinafter provided in sections 476.900 to 476.944. "Heard and determined", for purposes of sections 476.900 to 476.944, shall mean any process under which the court in question retains the final authority to make factual determinations pertaining to allegations of a county ordinance violation.

476.902. 1. Any county of the first classification may, provide by ordinance or charter for the establishment of a county court and for the selection, tenure and compensation of a county court judge or judges consistent with the provisions of sections 476.900 to 476.944 who shall have original jurisdiction to hear and determine all violations against the ordinances of the county. The method of selection of county court judges shall be provided by charter or ordinance. Each county court judge shall be selected for a term of not less than two years as provided by charter or ordinance.

2. Except where prohibited by charter or ordinance, the county court judge may be a part-time judge.

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

10 3. No person shall serve as a county court judge of any first class county unless the
11 person is licensed to practice law in this state.

12 4. Notwithstanding any other statute, a county court judge need not be a resident
13 of the county or of the circuit in which the county court judge serves except where
14 ordinance or charter provides otherwise. County court judges shall be residents of
15 Missouri.

16 5. Judges selected under the provisions of this section shall be county court judges
17 of the circuit court and shall be divisions of the circuit court of the circuit in which the
18 county is located. The judges of these county court divisions shall be subject to the rules
19 of the circuit court which are not inconsistent with the rules of the supreme court. The
20 presiding judge of the circuit shall have general administrative authority over the judges
21 and court personnel of the county court divisions within the circuit.

22 6. No county court judge shall hold any other office in the county which the county
23 court judge serves as judge. The compensation of any county court judge and other court
24 personnel shall not be dependent in any way upon the number of cases tried, the number
25 of guilty verdicts reached or the amount of fines imposed or collected.

26 7. County court judges shall be at least twenty-one years of age. No person shall
27 serve as county court judge after that person has reached that person's seventy-fifth
28 birthday.

 476.904. Every first class county which makes provision for a county court judge
2 or judges shall notify in writing the circuit clerk of the county in which the county court
3 is located before the county court judge or judges hear and determine any cases.

 476.906. 1. Where county ordinance violations are to be tried before a county court
2 judge or judges, the governing body of the first class county shall provide by ordinance for
3 a clerk or clerks and such other nonjudicial personnel as may be required for the proper
4 functioning of the county court division or divisions and shall provide a suitable courtroom
5 in which to hold court. The salaries of the judges, clerks and other nonjudicial personnel
6 and other expenses incidental to the operation of the county court divisions shall be paid
7 by the first class county.

8 2. Where the violations of county ordinances are heard and determined by an
9 associate circuit judge and, at the request of the first class county, the associate circuit
10 judge sits at the county court rather than in the courtroom provided by the county, the first
11 class county shall provide a suitable courtroom in which to hold court.

12 3. Where the violations of county ordinances are heard and determined by an
13 associate circuit judge and, at the request of the first class county, a clerk or clerks or other
14 nonjudicial personnel are located in the county court rather than at the courthouse

15 provided by the county, the salaries of such personnel and other expenses incidental to the
16 operation of their offices shall be paid by the first class county.

476.908. The county court judge shall be a conservator of the peace. He or she shall
2 keep a docket in which he or she shall enter every case commenced before him or her and
3 the proceeding therein and he or she shall keep such other records as required. Such
4 docket and records shall be records of the circuit court. The county court judge shall
5 deliver said docket and records and all books and papers pertaining to his or her office to
6 his or her successor in office or to the presiding judge of the circuit. The county court
7 judge shall have the power to administer oaths and enforce due obedience to all orders,
8 rules and judgments made by him or her, and may fine or imprison for contempt
9 committed before such judge while holding court, in the same manner and to the same
10 extent as a circuit judge.

476.910. 1. In the prosecution of violations of county ordinances before a county
2 court judge, all fines and costs shall be paid to and deposited not less frequently than
3 monthly into the county treasury.

4 2. In the prosecution of violations of county ordinances before an associate circuit
5 judge, all fines shall be paid to and deposited not less frequently than monthly into the
6 county treasury and all court costs shall be accounted for and remitted to the state treasury
7 in the same manner as provided by law for costs in misdemeanor cases.

8 3. The supreme court by administrative rule may provide for uniform procedure,
9 and reporting forms for the collection and transmittal of fines and costs. Until modified
10 or otherwise provided by such administrative rule, the county court judge, or associate
11 circuit judge hearing and determining violations of county ordinances, shall cause the clerk
12 serving his or her division, within the first ten days of every month, to make out a list of
13 all the cases heard or tried before the judge during the preceding month, giving in each
14 case the name of the defendant, the fine imposed, if any, the amount of costs, the names of
15 defendants committed and the cases in which there was an application for trial de novo,
16 respectively. Such clerk or the judge shall verify such lists and statements by affidavit, and
17 file the same forthwith with the clerk of the county, who shall lay the same before the
18 governing body or the county at its first session thereafter. The official collecting fines
19 shall, within the ten days aforesaid, pay to the county treasurer the full amount of all fines
20 collected by him or her during the preceding month if not previously paid to the county
21 treasurer.

476.912. All prosecutions for the violation of county ordinances shall be instituted
2 by information and may be based upon a complaint. Proceedings shall be in accordance

3 with the supreme court rules governing practice and procedure in proceedings before
4 municipal judges.

476.914. All warrants issued by a county court judge, or an associate circuit judge
2 hearing violations of county ordinances, shall be directed to the city marshal, chief of
3 police, or any other police officer of any municipality within the county, or to the sheriff
4 of the county. The warrants shall be executed by the marshal, chief of police, police officer
5 or sheriff at any place within the limits of the county, and not elsewhere, unless the
6 warrants are endorsed in the manner provided for warrants in criminal cases, and, when
7 so endorsed, shall be served in other counties, as provided for in warrants in criminal
8 cases.

476.916. The sheriff of the first class county shall, without a warrant, make arrests
2 of any person who commits an offense in his or her presence, but such officer shall, before
3 the trial, file a written complaint with the judge hearing violations of county ordinances.

476.918. It shall be the duty of an attorney designated by the first class county to
2 prosecute the violations of the county's ordinances before the county court judges or before
3 the associate circuit judges hearing the violations of that county's ordinances. The salary
4 or fees of the attorney and his or her necessary expenses incurred in such prosecutions
5 shall be paid by the first class county.

476.920. In any trial for the violation of a county ordinance, all issues of fact shall
2 be tried by the judge except where trial by jury is authorized by law and the defendant or
3 his or her attorney requests a trial by jury.

476.922. In any first class county which has established a county court, whenever
2 a defendant accused of a violation of a county ordinance has a right to a trial by jury and
3 demands such trial by jury the county court judge shall certify the case for assignment.

476.924. 1. It shall be the duty of the county court judge to summon all persons
2 whose testimony may be deemed essential as witnesses at the trial, and to enforce their
3 attendance by attachment, if necessary. The fees of witnesses shall be the same as those
4 fixed for witnesses in trials before associate circuit judges and shall be taxed as other costs
5 in the case.

6 2. When a trial shall be continued by a county court judge it shall not be necessary
7 to summon any witnesses who may be present at the continuance; but the county court
8 judge shall orally notify such witnesses as either party may require to attend before him
9 or her on the day set for trial to testify in the case, and enter the names of such witnesses
10 on his or her docket, which oral notice shall be valid as a summons.

476.926. If, in the progress of any trial before a county court judge, it shall appear
2 to the judge that the accused ought to be put upon trial for an offense against the criminal

3 laws of the state and not cognizable before him or her as county court judge, he or she shall
4 immediately stop all further proceedings before him or her as municipal judge and cause
5 the complaint to be made before some associate circuit judge within the county.

476.928. 1. Any judge hearing violations of county ordinances may, when in his or
2 her judgment it may seem advisable, grant a parole or probation to any person who shall
3 plead guilty or who shall be convicted after a trial before such judge. When a person is
4 placed on probation he or she shall be given a certificate explicitly stating the conditions
5 on which he or she is being released.

6 2. In addition to such other authority as exists to order conditions of probation, the
7 court may order conditions which the court believes will serve to compensate the victim of
8 the crime, any dependent of the victim, or society in general. Such conditions may include,
9 but need not be limited to:

10 (1) Restitution to the victim or any dependent of the victim, in an amount to be
11 determined by the judge; and

12 (2) The performance of a designated amount of free work for a public or charitable
13 purpose, or purposes, as determined by the judge.

14 3. A person may refuse probation conditioned on the performance of free work.
15 If he or she does so, the court shall decide the extent or duration of sentence or other
16 disposition to be imposed and render judgment accordingly. Any county, city, person,
17 organization, or agency, or employee of a county, city, organization or agency charged with
18 the supervision of such free work or who benefits from its performance shall be immune
19 from any suit by the person placed on parole or probation or any person deriving a cause
20 of action from him or her if such cause of action arises from such supervision of
21 performance, except for intentional torts or gross negligence. The services performed by
22 the probationer or parolee shall not be deemed employment within the meaning of the
23 provisions of chapter 288, RSMo.

24 4. The court may modify or enlarge the conditions of probation at any time prior
25 to the expiration or termination of the probation term.

476.930. 1. In any case tried before a county court judge who is licensed to practice
2 law in this state or before an associate circuit judge, except where there has been a plea of
3 guilty or the case has been tried with a jury, the defendant shall have a right of trial de
4 novo before a circuit judge or upon assignment before an associate circuit judge. An
5 application for a trial de novo shall be filed within ten days after judgment and shall be
6 filed in such form and perfected in such manner as provided by supreme court rule.

7 2. In any case tried with a jury before an associate circuit judge a record shall be
8 made and appeals may be had upon that record to the appropriate appellate court.

9 3. The supreme court may provide by rule what record shall be kept and may
10 provide that it be a stenographic record or one made by the utilization of electronic,
11 magnetic, or mechanical sound or video recording devices.

 476.932. In case of a breach of any recognizance entered into before a county court
2 judge or an associate circuit judge hearing a county ordinance violation case, the same
3 shall be deemed forfeited and the judge shall cause the same to be prosecuted against the
4 principal and surety, or either of them, in the name of the county as plaintiff. Such action
5 shall be prosecuted before a circuit judge or associate circuit judge, and in the event of
6 cases caused to be prosecuted by a county court judge, such shall be on the transcript of
7 the proceedings before the county court judge. All moneys recovered in such actions shall
8 be paid over to the county treasury to the general revenue fund of the county.

 476.934. A county court judge shall be disqualified to hear any case in which he or
2 she is in any way interested, or, if before the trial is commenced, the defendant or the
3 prosecutor files an affidavit that the defendant or the county, as the case may be, cannot
4 have a fair and impartial trial by reason of the interest or prejudice of the judge. Neither
5 the defendant nor the county shall be entitled to file more than one affidavit or
6 disqualification in the same case.

 476.936. 1. If a county court judge be absent, sick or disqualified from acting
2 pursuant to the general administrative authority of the presiding judge of the circuit court
3 over the county court divisions within the circuit contained in section 478.240, RSMo:

4 (1) In county court divisions having more than one judge, the presiding judge of
5 the county court division, if any, or if there is not a designated presiding judge of the
6 county court division, any other county court judge in said county court division may
7 request the presiding judge of the circuit court to designate a special county court judge
8 as provided in subsection 2 of this section until such absence or disqualification shall cease,
9 subject to subdivision (4) of this subsection;

10 (2) The presiding judge of the county court division may, by written directive,
11 designate a written procedure delegating authority by which the county court
12 administrator, if any, or the county court clerk, is authorized to notify and request the
13 presiding judge of the circuit court to designate a special county court judge as provided
14 in subsection 2 of this section;

15 (3) In the absence of multiple judges in a county court division, and in the absence
16 of a written directive and policy authorizing the procedure, the chief executive officer of
17 the county may request the presiding judge of the circuit court to designate a special
18 county court judge as provided in subsection 2 of this section or in cases of circumstances
19 making it impossible to reach the presiding judge of the circuit court in a timely manner,

20 the chief executive officer of the county may designate some competent, eligible person to
21 act as county court judge until the presiding judge of the circuit court can designate a
22 special county court judge as provided for under subsection 2 of this section;

23 (4) Notwithstanding the provisions of subdivisions (1) to (3) of this subsection,
24 should a vacancy occur in the office of an elected county court judge more than six months
25 before a general county election, then a special election shall be held to fill such vacancy;
26 and in case of vacancy in the office of an elected county court judge within less than six
27 months of a general county election, the office may be filled by a competent, eligible person
28 under the procedures set forth in subdivisions (1), (2), and (3) of this subsection.

29 2. The presiding judge of the circuit court may appoint any other county court
30 judge within the circuit to act as a special interim county court judge for a county court
31 judge of the circuit who is absent, sick or disqualified from acting. The presiding judge
32 shall act upon the request of those with authority to make such request under subsection
33 1 of this section.

34 3. The governing body of the county shall provide by ordinance for the
35 compensation of any person designated to act as county court judge under the provisions
36 of this section.

476.938. When a fine is assessed for violation of an ordinance, it shall be within the
2 discretion of the judge assessing the fine to provide for the payment of the fine on an
3 installment basis under such terms and conditions as he or she may deem appropriate.

476.940. In the trial of county ordinance violation cases, a copy of a county
2 ordinance which is certified by the clerk of the county shall constitute prima facie evidence
3 of such ordinance. If such certified copy is on file with the clerk serving the judge hearing
4 a case and readily available for inspection by the parties, the judge may take judicial notice
5 of such ordinance without further proof.

476.942. 1. First class counties by ordinance may provide for fees in an amount per
2 case to be set under sections 488.010 to 488.020, RSMo, for each county ordinance violation
3 case filed before a county court judge, and in the event a defendant pleads guilty or is
4 found guilty, the judge may assess costs against the defendant except in those cases where
5 the defendant is found by the judge to be indigent and unable to pay the costs. The fees
6 authorized in this subsection are in addition to service charges, witness fees and jail costs
7 that may otherwise be authorized to be assessed, but are in lieu of other court costs. The
8 fees provided by this subsection shall be collected by the county court division clerk in first
9 class counties electing or required to have violations of county ordinances tried before a
10 county court judge under section 476.902, or to employ judicial personnel under section
11 476.906, and disbursed as provided in subsection 1 of section 476.910. Any other court

12 costs required in connection with such cases shall be collected and disbursed as provided
13 in sections 488.010 to 488.020, RSMo; provided that, each county court may establish a
14 judicial education fund in an account under the control of the county court to retain one
15 dollar of the fees collected on each case and to use the fund only to pay for:

16 (1) The continuing education and certification required of the county court judges
17 by law or supreme court rule; and

18 (2) Judicial education and training for the court administrator and clerks of the
19 county court. Provided further, that no county court shall retain more than one thousand
20 five hundred dollars in the fund for each judge, administrator or clerk of the county court.
21 Any excess funds shall be transmitted quarterly to the general revenue fund of the county
22 treasury.

23 2. In county ordinance violation cases which are filed in the associate circuit
24 division of the circuit court, fees shall be assessed in each case in an amount to be set under
25 sections 488.010 to 488.020, RSMo. In the event a defendant pleads guilty or is found
26 guilty, the judge shall assess costs against the defendant except in those cases where the
27 defendant is found by the judge to be indigent and unable to pay the costs. In the event a
28 defendant is acquitted or the case is dismissed, the judge shall not assess costs against the
29 county. The costs authorized in this subsection are in addition to service charges, witness
30 fees and jail costs that may otherwise be authorized to be assessed, but are in lieu of other
31 court costs. The costs provided by this subsection shall be collected by the county division
32 clerk in first class counties electing or required to have violations of county ordinances
33 tried before a county court judge under section 476.902, or to employ judicial personnel
34 under section 476.906, and disbursed as provided in subsection 2 of section 476.910. Any
35 other court costs required in connection with such cases shall be collected and disbursed
36 as provided in sections 488.010 to 488.020, RSMo.

37 3. A county, when filing cases before an associate circuit judge, shall not be
38 required to pay fees.

39 4. No fees for a judge, county attorney or prosecutor shall be assessed as costs in
40 a county ordinance violation case.

41 5. In county ordinance violation cases, when there is an application for a trial de
42 novo, there shall be an additional fee in an amount to be set under sections 488.010 to
43 488.020, RSMo, which shall be assessed in the same manner as provided in subsection 2 of
44 this section.

45 6. First class counties by ordinance may provide for a schedule of costs to be paid
46 in connection with pleas of guilty which are processed in a traffic violations bureau. If a
47 county files its county ordinance violation cases before a county court judge, such costs

48 shall not exceed the court costs authorized by subsection 1 of this section. If a county files
49 its county ordinance violations cases in the associate circuit division of the circuit court,
50 such costs shall not exceed the court costs authorized by subsection 2 of this section.

2 476.944. If transferred by the supreme court or if assigned by the presiding judge
3 of the circuit or pursuant to court rule, a circuit judge may hear county ordinance violation
4 cases in those instances where provision is made in sections 476.900 to 476.944 for such
5 cases to be initially heard by an associate circuit judge and may exercise the other powers
6 granted associate circuit judges by this chapter. Costs shall be assessed in the same
7 amounts as if the cause was heard by an associate circuit judge. Such transfer or
assignment may be on a case-by-case or general basis.

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