

FIRST REGULAR SESSION

HOUSE BILL NO. 427

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HELMS.

0589H.021

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 302.341, 479.020, 479.350, 479.353, 479.359, and 479.360, RSMo, and to enact in lieu thereof six new sections relating to municipal courts.

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

Section A. Sections 302.341, 479.020, 479.350, 479.353, 479.359, and 479.360, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 302.341, 479.020, 479.350, 479.353, 479.359, and 479.360, to read as follows:

302.341. [~~+~~] If a Missouri resident charged with a moving traffic violation of this state or any county or municipality of this state fails to dispose of the charges of which the resident is accused through authorized prepayment of fine and court costs and fails to appear on the return date or at any subsequent date to which the case has been continued, or without good cause fails to pay any fine or court costs assessed against the resident for any such violation within the period of time specified or in such installments as approved by the court or as otherwise provided by law, any court having jurisdiction over the charges shall within ten days of the failure to comply inform the defendant by ordinary mail at the last address shown on the court records that the court ~~[will]~~ **may** order the director of revenue to suspend the defendant's driving privileges if the charges are not disposed of and fully paid within thirty days from the date of mailing. Thereafter, if the defendant fails to timely act to dispose of the charges and fully pay any applicable fines and court costs, the court ~~[shall]~~ **may** notify the director of revenue of such failure and of the pending charges against the defendant. Upon receipt of this notification, the director shall suspend the license of the driver, effective immediately, and provide notice of the suspension to the driver at the last address for the driver shown on the records of the department of revenue. Such suspension shall remain in effect until the court with the subject pending

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.

17 charge requests setting aside the noncompliance suspension pending final disposition, or
18 satisfactory evidence of disposition of pending charges and payment of fine and court costs, if
19 applicable, is furnished to the director by the individual. The filing of financial responsibility
20 with the ~~[bureau of safety responsibility,]~~ department of revenue~~;~~ shall not be required as a
21 condition of reinstatement of a driver's license suspended solely under the provisions of this
22 section.

23 ~~[2. The provisions of subsection 1 of this section shall not apply to minor traffic~~
24 ~~violations as defined in section 479.350.]~~

479.020. 1. Any city, town or village, including those operating under a constitutional
2 or special charter, may, and cities with a population of four hundred thousand or more shall,
3 provide by ordinance or charter for the selection, tenure and compensation of a municipal judge
4 or judges consistent with the provisions of this chapter who shall have original jurisdiction to
5 hear and determine all violations against the ordinances of the municipality. The method of
6 selection of municipal judges shall be provided by charter or ordinance. Each municipal judge
7 shall be selected for a term of not less than two years as provided by charter or ordinance.

8 2. Except where prohibited by charter or ordinance, the municipal judge may be a
9 part-time judge and may serve as municipal judge in more than one municipality.

10 3. No person shall serve as a municipal judge of any municipality with a population of
11 seven thousand five hundred or more or of any municipality in a county of the first class with a
12 charter form of government unless the person is licensed to practice law in this state unless, prior
13 to January 2, 1979, such person has served as municipal judge of that same municipality for at
14 least two years.

15 4. Notwithstanding any other statute, a municipal judge need not be a resident of the
16 municipality or of the circuit in which the municipal judge serves except where ordinance or
17 charter provides otherwise. Municipal judges shall be residents of Missouri.

18 5. Judges selected under the provisions of this section shall be municipal judges of the
19 circuit court and shall be divisions of the circuit court of the circuit in which the municipality,
20 or major geographical portion thereof, is located. The judges of these municipal divisions shall
21 be subject to the rules of the circuit court which are not inconsistent with the rules of the supreme
22 court. The presiding judge of the circuit shall have general administrative authority over the
23 judges and court personnel of the municipal divisions within the circuit.

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

28 7. Municipal judges shall be at least twenty-one years of age. No person shall serve as
29 municipal judge after that person has reached that person's seventy-fifth birthday.

30 8. Within six months after selection for the position, each municipal judge who is not
31 licensed to practice law in this state shall satisfactorily complete the course of instruction for
32 municipal judges prescribed by the supreme court. The state courts administrator shall certify
33 to the supreme court the names of those judges who satisfactorily complete the prescribed
34 course. If a municipal judge fails to complete satisfactorily the prescribed course within six
35 months after the municipal judge's selection as municipal judge, the municipal judge's office
36 shall be deemed vacant and such person shall not thereafter be permitted to serve as a municipal
37 judge, nor shall any compensation thereafter be paid to such person for serving as municipal
38 judge.

39 ~~[9. No municipal judge shall serve as a municipal judge in more than five municipalities~~
40 ~~at one time.]~~

 479.350. For purposes of sections 479.350 to 479.372, the following terms mean:

2 (1) "Annual general operating revenue", revenue that can be used to pay any bill or
3 obligation of a county, city, town, or village, including general sales tax; general use tax; general
4 property tax; fees from licenses and permits; unrestricted user fees; fines, court costs, bond
5 forfeitures, and penalties. Annual general operating revenue does not include **revenues**
6 **designated by the Missouri Constitution, state statute, or federal law for a specific purpose,**
7 **including** designated sales or use taxes; restricted user fees; grant funds; funds expended by a
8 political subdivision for technological assistance in collecting, storing, and disseminating
9 criminal history record information and facilitating criminal identification activities for the
10 purpose of sharing criminal justice-related information among political subdivisions; or other
11 revenue designated for a specific purpose;

12 (2) "Court costs", costs, fees, or surcharges which are retained by a county, city, town,
13 or village upon a finding of guilty or plea of guilty, and shall exclude any costs, fees, or
14 surcharges disbursed to the state or other entities by a county, city, town, or village and any
15 certified costs, not including fines added to the annual real estate tax bill or a special tax bill
16 under section 67.398, 67.402, or 67.451;

17 (3) "Minor traffic violation", a municipal or county traffic ordinance violation prosecuted
18 **from an original charge** that does not involve an accident or injury, that does not involve the
19 operation of a commercial motor vehicle, and for which ~~[no points are assessed by the~~
20 ~~department of revenue or]~~ the department of revenue is authorized to assess ~~[one to]~~ **no more**
21 **than** four points to a person's driving record upon conviction. ~~[Minor traffic violation]~~ **"Minor**
22 **traffic violation"** shall include amended charges for any **offense originally charged as a minor**
23 **traffic violation.** ~~[Minor traffic violation]~~ **"Minor traffic violation"** shall exclude a violation

24 for exceeding the speed limit by more than nineteen miles per hour or a violation occurring
25 within a construction zone or school zone. **"Minor traffic violation" shall exclude charges**
26 **involving operating a vehicle without insurance;**

27 (4) "Municipal ordinance violation", a municipal or county ordinance violation
28 prosecuted for which penalties are authorized by statute under sections 64.160, 64.200, 64.295,
29 64.487, 64.690, 64.895, 67.398, 71.285, 89.120, and 89.490. Municipal ordinance violation shall
30 include amended charges for municipal ordinance violations.

479.353. Notwithstanding any provisions to the contrary, the following conditions shall
2 apply to minor traffic violations and municipal ordinance violations:

3 (1) The court shall not assess a fine, if combined with the amount of court costs, totaling
4 in excess of:

5 (a) ~~[Two hundred twenty-five]~~ **One hundred fifty** dollars for minor traffic violations;
6 and

7 (b) For municipal ordinance violations committed within a twelve-month period
8 beginning with the first violation: two hundred dollars for the first municipal ordinance
9 violation, two hundred seventy-five dollars for the second municipal ordinance violation, three
10 hundred fifty dollars for the third municipal ordinance violation, and four hundred fifty dollars
11 for the fourth and any subsequent municipal ordinance violations;

12 (2) The court shall not sentence a person to confinement, except the court may sentence
13 a person to confinement for any violation involving alcohol or controlled substances, violations
14 endangering the health or welfare of others, **failing to appear**, or eluding or giving false
15 information to a law enforcement officer;

16 (3) ~~[A person shall not be placed in confinement for failure to pay a fine unless such~~
17 ~~nonpayment violates terms of probation or unless the due process procedures mandated by~~
18 ~~Missouri supreme court rule 37.65 or its successor rule are strictly followed by the court;~~

19 ~~—(4)]~~ Court costs that apply shall be assessed against the defendant unless the court finds
20 that the defendant is indigent based on standards set forth in determining such by the presiding
21 judge of the circuit. Such standards shall reflect model rules and requirements to be developed
22 by the supreme court; ~~and]~~

23 ~~[(5)]~~ (4) No court costs shall be assessed if the defendant is found to be indigent under
24 subdivision ~~[(4)]~~ (3) of this section or if the case is dismissed; **and**

25 (5) **In the event a person charged with a minor traffic violation or municipal**
26 **ordinance violation fails to appear in court after having been summoned to appear, and**
27 **if the court finds that there is not good cause for such nonappearance, the limitations as**
28 **to fines and punishment set forth in this section shall not apply.**

479.359. 1. Every county, city, town, and village shall annually calculate the percentage
2 of its annual general operating revenue received from fines, bond forfeitures, and court costs for
3 municipal ordinance violations and minor traffic violations, including amended charges for any
4 municipal ordinance violations and minor traffic violations, whether the violation was prosecuted
5 in municipal court, associate circuit court, or circuit court, occurring within the county, city,
6 town, or village. If the percentage is more than thirty percent, the excess amount shall be sent
7 to the director of the department of revenue. The director of the department of revenue shall set
8 forth by rule a procedure whereby excess revenues as set forth in this section shall be sent to the
9 department of revenue. The department of revenue shall distribute these moneys annually to the
10 schools of the county in the same manner that proceeds of all fines collected for any breach of
11 the penal laws of this state are distributed.

12 2. Beginning January 1, 2016, the percentage specified in subsection 1 of this section
13 shall be reduced from thirty percent to twenty percent, unless any county, city, town, or village
14 has a fiscal year beginning on any date other than January first, in which case the reduction shall
15 begin on the first day of the immediately following fiscal year except that any county with a
16 charter form of government and with more than nine hundred fifty thousand inhabitants and any
17 city, town, or village with boundaries found within such county shall be reduced from thirty
18 percent to twelve and one-half percent.

19 3. An addendum to the annual financial report submitted to the state auditor under
20 section 105.145 by the county, city, town, or village that has chosen to have a municipal court
21 division shall contain an accounting of:

22 (1) Annual general operating revenue as defined in section 479.350;

23 (2) The total revenues from fines, bond forfeitures, and court costs for municipal
24 ordinance violations and minor traffic violations occurring within the county, city, town, or
25 village, including amended charges from any municipal ordinance violations and minor traffic
26 violations;

27 (3) The percent of annual general operating revenue from fines, bond forfeitures, and
28 court costs for municipal ordinance violations and minor traffic violations occurring within the
29 county, city, town, or village, including amended charges from any charged municipal ordinance
30 violations and minor traffic violation, charged in the municipal court of that county, city, town,
31 or village; and

32 (4) Said addendum shall be certified and signed by a representative with knowledge of
33 the subject matter as to the accuracy of the addendum contents, under oath and under the penalty
34 of perjury, and witnessed by a notary public.

35 4. On or before December 31, 2015, the state auditor shall set forth by rule a procedure
36 for including the addendum information required by this section. The rule shall also allow

37 reasonable opportunity for demonstration of compliance without unduly burdensome calculations
 38 **by allowing any county, city, town, or village that receives revenue from fines, bond**
 39 **forfeitures, and court costs in all municipal court cases during the reporting year, in an**
 40 **amount that is less than the limit set forth in subsection 2 of this section of its annual**
 41 **general operating revenue, to file a statement with the state auditor confirming such facts,**
 42 **and such statement will constitute compliance with the provisions of this section.**

479.360. 1. Every county, city, town, and village shall file with the state auditor,
 2 together with its report due under section 105.145, its certification of its substantial compliance
 3 signed by its municipal judge with the municipal court procedures set forth in this subsection
 4 during the preceding fiscal year. The procedures to be adopted and certified include the
 5 following:

6 (1) Defendants in custody pursuant to an initial arrest warrant issued by a municipal
 7 court have an opportunity to be heard by a judge in person, by telephone, or video conferencing
 8 as soon as practicable and not later than forty-eight hours on minor traffic violations and not later
 9 than seventy-two hours on other violations and, if not given that opportunity, are released;

10 (2) Defendants in municipal custody shall not be held more than twenty-four hours
 11 without a warrant after arrest;

12 (3) ~~Defendants are not detained in order to coerce payment of fines and costs unless~~
 13 ~~found to be in contempt after strict compliance by the court with the due process procedures~~
 14 ~~mandated by Missouri supreme court rule 37.65 or its successor rule;~~

15 ~~——(4)]~~ The municipal court has established procedures to allow indigent defendants to
 16 present evidence of their financial condition and takes such evidence into account if determining
 17 fines and costs and establishing related payment requirements;

18 ~~[(5)]~~ (4) The municipal court only assesses fines and costs as authorized by law;

19 ~~[(6)]~~ (5) No additional charge shall be issued for the failure to appear for a minor traffic
 20 violation;

21 ~~[(7)]~~ (6) The municipal court conducts proceedings in a courtroom that is open to the
 22 public and large enough to reasonably accommodate the public, parties, and attorneys;

23 ~~[(8)]~~ (7) The municipal court makes use of alternative payment plans;

24 ~~[(9)]~~ (8) The municipal court makes use of community service alternatives ~~[for which~~
 25 ~~no associated costs are charged to the defendant];~~ and

26 ~~[(10)]~~ (9) The municipal court has adopted an electronic payment system or payment
 27 by mail for the payment of minor traffic violations.

28 2. On or before December 31, 2015, the state auditor shall set forth by rule a procedure
 29 for including the addendum information required by this section. The rule shall also allow
 30 reasonable opportunity for demonstration of compliance.