

SECOND REGULAR SESSION

SENATE BILL NO. 870

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHNEIDER.

Read 1st time January 19, 2000, and 1,000 copies ordered printed.

3002S.041

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 66.010, 211.023, 478.265, 478.266, 478.267 and 487.050, RSMo 1994, and sections 478.003, 478.268, 478.466, 479.500, 487.020, 487.030, 487.040, 487.170, 535.200 and 535.210, RSMo Supp. 1999, relating to judicial commissioners in circuit courts, and to enact in lieu thereof fifteen new sections relating to the same subject, with an emergency clause and expiration dates for certain sections.

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

Section A. Sections 66.010, 211.023, 478.265, 478.266, 478.267 and 487.050, RSMo 1994, and sections 478.003, 478.268, 478.466, 479.500, 487.020, 487.030, 487.040, 487.170, 535.200 and 535.210, RSMo Supp. 1999, are repealed and fifteen new sections enacted in lieu thereof, to be known as sections 66.010, 211.023, 478.003, 478.037, 478.265, 478.266, 478.267, 478.268, 478.466, 479.500, 487.020, 487.050, 487.170, 535.200 and 535.210, to read as follows:

66.010. 1. Any first class county framing and adopting a charter for its own government under the provisions of section 18, article VI of the constitution of this state, may prosecute and punish violations of its county ordinances in the circuit court of such counties in the manner and to the extent herein provided or in a county municipal court if creation of a county municipal court is authorized by such charter. In addition, the county may prosecute and punish municipal ordinance violations in the county municipal court pursuant to a contract with any municipality within the county. Any county municipal court established pursuant to the provisions of this section shall have jurisdiction over violations of that county's ordinances and the ordinances of municipalities with which the county has a contract to prosecute and punish violations of municipal ordinances of the city. Costs and procedures in any such county municipal court shall

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

be governed by the provisions of law **and court rules** relating to municipal ordinance violations in municipal divisions of circuit courts.

2. In any county which has elected to establish a county municipal court pursuant to this section, the judges for such court shall be appointed by the county executive of such county, subject to confirmation by the legislative body of such county in the same manner as confirmation for other county appointed officers. The number of judges appointed, and qualifications for their appointment, shall be established by ordinance of the county.

3. The number of divisions of such county municipal court and its term shall be established by ordinance of the county.

4. The ordinance of the county shall provide for regular sessions of court in the evening hours after 6:00 p.m. and at locations outside the county seat.

5. Judges of the county municipal court shall be licensed to practice law in this state and shall be residents of the county in which they serve. Municipal court judges shall not accept or handle cases in their practice of law which are inconsistent with their duties as a municipal court judge and shall not be a judge or prosecutor for any other court.

6. In establishing the county municipal court, provisions shall be made for appropriate circumstances whereby defendants may enter not guilty pleas and obtain trial dates by telephone or written communication without personal appearance, or to plead guilty and deliver by mail or electronic transfer or other approved method the specified amount of the fine and costs as otherwise provided by law, within a specified period of time.

7. In a county municipal court established pursuant to this section, the county may provide by ordinance for court costs not to exceed the sum which may be provided by municipalities for municipal violations before municipal courts. The county municipal judge may assess costs against a defendant who pleads guilty or is found guilty except in those cases where the defendant is found by the judge to be indigent and unable to pay the costs. The costs authorized in this subsection are in addition to service costs, witness fees and jail costs that may otherwise be authorized to be assessed, but are in lieu of other court or judge costs or fees. Such costs shall be collected by the authorized clerk and deposited into the county treasury.

8. Provisions shall be made for recording of proceedings, except that if such proceedings are not recorded, then, in that event, a person aggrieved by a judgment of a traffic judge [or commissioner] shall have the right of a trial de novo. The procedures for perfecting the right of a trial de novo shall be the same as that provided under sections 512.180 to 512.320, RSMo, except that the provisions of subsection 2 of section 512.180, RSMo, shall not apply to such cases. In the event that such proceedings are recorded, all final decisions of the county municipal court [shall be appealable] **may be appealed** on such record to the appellate court with appropriate jurisdiction.

9. Any person charged with the violation of a county ordinance in a county which has

established a county municipal court under the provisions of this section shall, upon request, be entitled to a trial by jury before a county municipal court judge. Any jury trial shall be heard with a record being made.

[10. In the event that a court is established pursuant to this section, the circuit judges of the judicial circuit with jurisdiction within that county may authorize the judges of the county municipal court to act as commissioners to hear in the first instance nonfelony violations of state law involving motor vehicles as provided by local rule.]

211.023. In each county of the first class having a charter form of government, except those counties having a family court as provided in sections 487.010 to 487.190, RSMo, a majority of the circuit judges, en banc, may appoint one or two persons who shall have the same qualifications as a circuit judge to act as commissioners. The commissioners shall be appointed for a term of four years. The compensation of a commissioner shall be the same as set by law for associate circuit judges of the county for which they are appointed, payable by the state, and the commissioners shall devote full time to such duties. **This section shall expire and be of no force and effect on and after January 1, 2006.**

478.003. **1.** In any judicial circuit of this state, a majority of the judges of the circuit court may designate a judge to hear cases arising in the circuit subject to the provisions of sections 478.001 to 478.006.

2. In lieu thereof and subject to appropriations or other funds available for such purpose, a majority of the judges of the circuit court may appoint a person or persons to act as drug court commissioners. Each commissioner shall be appointed for a term of four years, but may be removed at any time by a majority of the judges of the circuit court. The qualifications and compensation of the commissioner shall be the same as that of an associate circuit judge. If the compensation of a commissioner appointed pursuant to this section is provided from other than state funds, the source of such fund shall pay to and reimburse the state for the actual costs of the salary and benefits of the commissioner. The commissioner shall have all the powers and duties of a circuit judge, except that any order, judgment or decree of the commissioner shall be confirmed or rejected by an associate circuit or circuit judge by order of record [entered within the time the judge could set aside such order, judgment or decree had the same been made by the judge] **as provided in section 478.037, RSMo.** If so confirmed, the order, judgment or decree shall have the same effect as if made by the judge on the date of its confirmation. **This section shall expire and be of no force and effect on and after January 1, 2006.**

478.037. 1. A commissioner or deputy commissioner appointed pursuant to section 211.023, 478.003, 478.265, 478.266, 478.267, 478.268, 478.466 or 487.020, RSMo, shall prepare written findings and recommendations in any case or proceeding assigned to the commissioner or deputy commissioner. Written notice of the findings and recommendations of the commissioner or deputy commissioner, together with a

statement that the matter is being transferred to a judge exercising office pursuant to article V of the constitution, shall be given to the parties whose case or proceeding shall be heard by the commissioner or deputy commissioner and, where appropriate, to the juvenile, the juvenile's custodian, and any other person that the court may direct. This notice may be given by mail or other service as directed by the court. The commissioner or deputy commissioner shall file the written findings and recommendations with the clerk of the court, together with a transcript of the proceedings including the evidence and exhibits, if any. Any party receiving such notice may file written objections to the findings and recommendations within twenty days after receipt thereof, and shall serve copies of such objections on all other parties. If no objections are filed, the court may adopt the findings and recommendations. If objections are filed, or if the court proposes action other than the adoption of the report, the court, after a hearing, may adopt the findings and recommendations or may modify or reject the findings and recommendations, in whole or in part, or may receive further evidence, or may return the case or proceeding to the commissioner or deputy commissioner, with instructions.

2. Any commissioner or deputy commissioner holding office immediately prior to the effective date of this act pursuant to section 211.023, 478.003, 478.265, 478.266, 478.267, 478.268, 478.466 or 487.020, RSMo, shall serve in that capacity for the remainder of the term of office to which the commissioner or deputy commissioner was originally appointed, and thereafter until the January first next following the general election date next following the date of the expiration of the commissioner's term of office, except as provided by subsection 3 of this section. Thereafter, such office of commissioner or deputy commissioner shall be abolished, no person shall be appointed to fill such office of commissioner or deputy commissioner after that date, and there shall be a circuit or associate circuit judge position as provided by this section.

3. Any commissioner holding office on the effective date of this act pursuant to section 211.023, 478.003, 478.265, 478.266, 478.267, 478.268, 478.466 or 487.020, RSMo, who would be eligible upon the expiration of his or her term of office to receive judicial retirement benefits as provided by section 476.520, RSMo, is eligible for reappointment as a commissioner of the circuit court which the commissioner served, as provided by this section. Any commissioner subject to this subsection may serve one or more consecutive terms in that capacity until the commissioner's death, resignation or removal from office. Thereafter, such office of commissioner shall be abolished and there shall be a circuit or associate circuit judge position as provided by this section.

4. Upon the expiration of the term of each commissioner or deputy commissioner as provided by subsections 2 and 3 of this section, there shall be an additional circuit or associate circuit judge position as provided by this subsection. The primary

jurisdiction of any judge selected to fill an additional circuit or associate judge position created pursuant this subsection shall be in the division served by the commissioner or deputy commissioner whose term expired prior to creation of the additional judge position. Such judges shall be selected for office in the manner in which circuit and associate circuit judges are selected in that circuit, and shall either be subject to election at the general election date which next follows the date of the expiration of the commissioner's term of office to which the commissioner was appointed prior to the effective date of this section, or subject to appointment as provided by sections 25(a)-(g) of article V of the constitution. The additional judge positions shall be established in the following judicial circuits or counties:

(1) There shall be an additional circuit judge position in each of the sixteenth, twenty-first and twenty-second judicial circuits upon the expiration of the term of the commissioner serving the probate division in each of such circuits, provided that such circuit judges shall not be subject to section 485.040, RSMo, but shall preserve the record in their divisions in any manner allowed pursuant to section 478.072;

(2) There shall be an additional associate circuit judge position in Boone County upon the expiration of the term of the commissioner serving the family court division in the thirteenth judicial circuit;

(3) There shall be additional associate circuit judge positions in each county wholly comprising one circuit, upon the expiration of the term of each other commissioner or deputy commissioner serving pursuant to this section not otherwise specifically provided for in subdivision (1) or (2) of this subsection.

5. There shall be an additional associate circuit judge position in any county wholly comprising one circuit, or in the largest county within a circuit comprised of more than one county, for each circuit receiving an appropriation for state fiscal year 2001 for a drug court commissioner to be appointed pursuant to section 478.003, as in effect prior to the effective date of this act.

6. The personal services expenditures associated with the additional circuit or associate circuit judges provided by this section may be paid from funds appropriated for the commissioners and deputy commissioners that such judges replace.

7. The salaries and benefits of the additional judges provided by this section shall be paid by the state out of the state treasury, without necessity of reimbursement by any county or other source of funds.

478.265. The judge of the probate division of the circuit court of any county which has more than four hundred thousand inhabitants may appoint a person to be known as commissioner of the probate division of the circuit court, who shall possess the same qualifications and take and subscribe a like oath as such judge. The compensation of the commissioner shall be limited, determined and paid in the same manner as division clerks as provided by subsection 2 of section

483.243, RSMo, until June 30, 1981, and section 483.245, RSMo, after that date except as provided in sections 478.266 and 478.267; provided, however, that said commissioner shall receive a per diem of twenty dollars per day as compensation unless said commissioner is a regular salaried employee serving the probate division of the circuit court in which event he shall receive no per diem allowance; and his service shall extend until terminated by order of the judge of the probate division of the circuit court entered of record but not beyond the term of office of such judge. Subject to approval or rejection by the judge of the probate division, the commissioner shall have all the powers and duties of such judge; but the judge shall by order of record reject or confirm all orders, judgments, and decrees of the commissioner [within the time such judge could set aside such orders, judgments, or decrees, had the same been made by him] **as provided in section 478.037**; and if so confirmed such orders, judgments, and decrees shall have the same effect as if made by the judge on the date of such confirmation. **This section shall expire and be of no force and effect on and after January 1, 2006.**

478.266. 1. Notwithstanding the provisions of section 478.265, on and after January 2, 1979, each county of the first class having a charter form of government and containing all or part of a city having a population of at least four hundred fifty thousand or more a majority of the circuit judges, meeting en banc, may appoint one person, who shall possess the same qualifications as a circuit judge, to act as commissioner of the probate division of the circuit court. The commissioner shall be appointed for a term of four years. The compensation of the **probate** commissioner shall be the same as that of a circuit judge, payable in the same manner and from the same source as the compensation of the judge who serves in the probate division of the circuit court. Subject to approval or rejection by the judge of the probate division, the commissioner shall have all the powers and duties of the judge. The judge shall by order of record reject or confirm all orders, judgments and decrees of the commissioner [within the time the judge could set aside such orders, judgments or decrees had the same been made by him] **as provided in section 478.037**. If so confirmed, the orders, judgments and decrees shall have the same effect as if made by the judge on the date of their confirmation.

2. The judge of the probate division of the circuit court of each county of the first class having a charter form of government and containing a population of at least four hundred fifty thousand inhabitants and in any city not within a county and, after January 1, 1991, in each county of the first class having a charter form of government and not containing all or part of a city having a population of at least four hundred fifty thousand or more may appoint a person to be known as deputy commissioner of the probate division of the circuit court, who shall possess the same qualifications and take and subscribe a like oath as such judge. The deputy commissioner shall be appointed for a term of four years. The compensation of the deputy commissioner shall be the same as that of an associate circuit judge of the circuit court in a county of the first class, payable in the same manner and from the same source as the compensation of

an associate circuit judge of the circuit court of a first class county. Subject to approval or rejection by the judge of the probate division, the commissioner shall have all the powers and duties of the clerk of the probate division and such judge; but the judge shall by order of record reject or confirm all orders, judgments, and decrees of the deputy commissioner [within the time such judge could set aside such orders, judgments, or decrees, had the same been made by him] **as provided in section 478.037**; and if so confirmed such orders, judgments, and decrees shall have the same effect as if made by the judge on the date of such confirmation.

3. This section shall expire and be of no force and effect on and after January 1, 2006.

478.267. Notwithstanding the provisions of section 478.265, on and after January 2, 1979, in each county of the first class having a charter form of government and having a population of at least nine hundred thousand or more inhabitants, the judge of the probate division of the circuit court may appoint one person, who shall possess the same qualifications as a circuit judge, to act as commissioner of the probate division of the circuit court. The commissioner shall be appointed for a term of four years. The compensation of the commissioner shall be determined by the judge of the probate division of the circuit court, not to exceed the compensation of a circuit court judge, payable in the same manner and from the same source as the compensation of the judge who serves in the probate division of the circuit court. Subject to approval or rejection by the judge of the probate division, the commissioner shall have all the powers and duties of the judge. The judge shall by order of record reject or confirm all orders, judgments and decrees of the commissioner [within the time the judge could set aside such orders, judgments or decrees had the same been made by him] **as provided in section 478.037**. If so confirmed, the orders, judgments and decrees shall have the same effect as if made by the judge on the date of their confirmation. **This section shall expire and be of no force and effect on and after January 1, 2006.**

478.268. Notwithstanding the provisions of section 478.265, in the thirty-first judicial circuit, the circuit court en banc may appoint one person, who shall possess the same qualifications as a circuit judge, to act as commissioner of the probate division of the circuit court. The commissioner shall be appointed for a term of four years. The compensation and retirement benefits of the commissioner shall be the same as that of an associate circuit judge, payable in the same manner and from the same source as that of the associate circuit judge. Subject to approval or rejection by the judge of the probate division, the commissioner shall have all the powers and duties of a circuit judge. The judge shall by order of record reject or confirm all orders, judgments and decrees of the commissioner [within the time the judge could set aside such orders, judgments or decrees had the same been made by such judge] **as provided in section 478.037**. If so confirmed, the orders, judgments and decrees shall have the same effect as if made by the judge on the date of their confirmation. **This section shall expire and be of no force and effect on**

and after January 1, 2006.

478.466. 1. In the sixteenth judicial circuit consisting of the county of Jackson, a majority of the court en banc may appoint one person, who shall possess the same qualifications as an associate circuit judge, to act as drug court commissioner. The commissioner shall be appointed for a term of four years. The compensation of the commissioner shall be the same as that of an associate circuit judge and, subject to appropriation from the county legislature of the county wherein such circuit is wholly located, reimbursed from proceeds from the county antidrug sales tax adopted pursuant to section 67.547, RSMo. The county wherein such circuit is wholly located shall pay to and reimburse the state for the actual costs of the salary and benefits of the drug commissioner appointed pursuant to this section, **for each full calendar month that the commissioner is employed in such position.** The retirement benefits of such commissioner shall be the same as those of an associate circuit judge, payable in the same manner and from the same source as those of an associate circuit judge. Subject to approval or rejection by a circuit judge, the commissioner shall have all the powers and duties of a circuit judge. A circuit judge shall by order of record reject or confirm any order, judgment and decree of the commissioner [within the time the judge could set aside such order, judgment or decree had the same been made by him] **as provided in section 478.037.** If so confirmed, the order, judgment or decree shall have the same effect as if made by the judge on the date of its confirmation. **This subsection shall expire and be of no force and effect on and after January 1, 2006.**

2. The court administrator of the sixteenth judicial circuit shall charge and collect a surcharge of thirty dollars in all proceedings assigned to the drug [commissioner] **court in the sixteenth judicial circuit** for disposition, provided that the surcharge shall not be charged in any proceeding when costs are waived or are to be paid by the state, county or municipality. Moneys obtained from such surcharge shall be collected and disbursed in the manner provided by sections 488.010 to 488.020, RSMo, and payable to the drug [commissioner] **court** for operation of the drug court.

479.500. 1. In the twenty-first judicial circuit, a majority of the circuit judges, en banc, may establish a traffic court, which shall be a division of the circuit court, and may authorize the appointment of not more than three municipal judges who shall be known as traffic judges. The traffic judges shall be appointed by a traffic court judicial commission consisting of the presiding judge of the circuit, who shall be the chair, one circuit judge elected by the circuit judges, one associate circuit judge elected by the associate circuit judges of the circuit, and two members appointed by the county executive of St. Louis County, each of whom shall represent one of the two political parties casting the highest number of votes at the next preceding gubernatorial election. The procedures and operations of the traffic court judicial commission shall be established by circuit court rule.

2. Traffic judges [may be authorized to act as commissioners to hear in the first instance

nonfelony violations of state law involving motor vehicles, and such other offenses as may be provided by circuit court rule. Traffic judges may also] **shall** be authorized to hear in the first instance violations of county and municipal ordinances involving motor vehicles, and other county ordinance violations, as provided by circuit court rule.

3. In the event that a county municipal court is established pursuant to section 66.010, RSMo, which takes jurisdiction of county ordinance violations the circuit court may then authorize the appointment of no more than two traffic judges authorized to hear municipal ordinance violations other than county ordinance violations[, and to act as commissioner to hear in the first instance nonfelony violations of state law involving motor vehicles, and such other offenses as may be provided by rule. These traffic court judges also may be authorized to act as commissioners to hear in the first instance petitions to review decisions of the department of revenue or the director of revenue filed pursuant to sections 302.309, 302.311, 302.535 and 302.750, RSMo].

4. In establishing a traffic court, the circuit may be divided into such sectors as may be established by a majority of the circuit and associate circuit judges, en banc. The traffic court in each sector shall hear those cases arising within the territorial limits of the sector unless a case arising within another sector is transferred as provided by operating procedures.

5. Traffic judges shall be licensed to practice law in this state and shall serve at the pleasure of a majority of the circuit and associate circuit judges, en banc, and shall be residents of St. Louis County, and shall receive from the state as annual compensation an amount equal to one-third of the annual compensation of an associate circuit judge. Each judge shall devote approximately one-third of his working time to the performance of his duties as a traffic judge. Traffic judges shall not accept or handle cases in their practice of law which are inconsistent with their duties as a traffic judge and shall not be a judge or prosecutor for any other court. Traffic judges shall not be considered state employees and shall not be members of the state employees' or judicial retirement system or be eligible to receive any other employment benefit accorded state employees or judges.

6. A majority of the judges, en banc, shall establish operating procedures for the traffic court which shall provide for regular sessions in the evenings after 6:00 p.m. and for Saturday or other sessions as efficient operation and convenience to the public may require. Proceedings in the traffic court, except when a judge is acting as a commissioner pursuant to this section, shall be conducted as provided in supreme court rule [37]. The hearing shall be before a traffic judge without jury, and the judge shall assume an affirmative duty to determine the merits of the evidence presented and the defenses of the defendant and may question parties and witnesses. No term of imprisonment or confinement may be assessed by a traffic judge. In the event a jury trial is requested, the cause shall be certified to the circuit court for trial by jury as otherwise provided by law. Clerks and computer personnel shall be assigned as needed for the efficient operation of the court.

7. In establishing operating procedure, provisions shall be made for appropriate circumstances whereby defendants may enter not guilty pleas and obtain trial dates by telephone or written communication without personal appearance, or to plead guilty and deliver by mail or electronic transfer or other approved method the specified amount of the fine and costs as otherwise provided by law, within a specified period of time.

8. Operating procedures shall be provided for electronic recording of proceedings, except that if adequate recording equipment is not provided at county expense, then, in that event, a person aggrieved by a judgment of a traffic judge [or commissioner] shall have the right of a trial de novo. The procedures for perfecting the right of a trial de novo shall be the same as that provided under sections 512.180 to 512.320, RSMo, except that the provisions of subsection 2 of section 512.180, RSMo, shall not apply to such cases.

9. The circuit court shall only have the authority to appoint two commissioners with the jurisdiction provided in subsection 3 of this section.

10. All costs to establish and operate a county municipal court under section 66.010, RSMo, and this section shall be borne by such county.

487.020. 1. In each circuit or a county having a family court, a majority of the circuit and associate circuit judges en banc, in the circuit, may appoint commissioners, subject to appropriations, to hear family court cases and make findings as provided for in sections 487.010 to 487.190, **section 478.037, RSMo, and by supreme court rule**. Any person serving as a commissioner of the juvenile division of the circuit court on August 28, 1993, shall become a commissioner of the family court. In each circuit or a county therein having a family court, a majority of the circuit and associate circuit judges en banc may appoint, in addition to those commissioners serving as commissioners of the juvenile division and becoming commissioners of the family court pursuant to the provisions of [sections 487.020 to 487.040] **this section**, no more than three additional commissioners to hear family court cases and make findings and recommendations as provided in sections 487.010 to 487.190. The number of additional commissioners added as a result of the provisions of sections 487.010 to 487.190 may be appointed only to the extent that the state is reimbursed for the salaries of the commissioners as provided in sections 487.010 to 487.190 or by federal or county funds or by gifts or grants made for such purposes. A commissioner shall be appointed for a term of four years. Commissioners appointed pursuant to [sections 487.020 to 487.040] **this section** shall serve in addition to circuit judges, associate circuit court judges and commissioners authorized to hear actions classified under section 487.080.

2. The circuit court in the eleventh judicial circuit may, in substitution of a family court commissioner currently appointed pursuant to this section whose salary is reimbursable, appoint one family court commissioner whose compensation shall be payable by the state without necessity of reimbursement. The provisions of this subsection shall not be construed to allow appointment

of a family court commissioner in addition to the number of such family court commissioners holding office in the eleventh judicial circuit as of January 1, 1999, and the appointment of the state-paid commissioner shall be subject to appropriations for such purpose.

3. Each commissioner of the family court shall possess the same qualifications as a circuit judge. The compensation and retirement benefits of each commissioner shall be the same as that of an associate circuit judge, payable in the same manner and from the same source as that of an associate circuit judge. **This section shall expire and be of no force and effect on and after January 1, 2006.**

[487.030. 1. The findings and recommendations of the commissioner shall become the judgment of the court when adopted and confirmed by an order of a circuit or an associate circuit judge. Notice of the findings and recommendations of the commissioner, together with a statement relative to the right to file a motion for rehearing, shall be given to the parties whose case has been heard by the commissioner, and to any other person that the court may direct. This notice may be given at the hearing, or by mail or other service directed by the court.

2. The parties to a cause of action heard by a commissioner are entitled to file with the court a motion for a hearing by a judge of the family court either within fifteen days after receiving notice of the findings of the commissioner at the hearing, or within fifteen days after the mailing, or within fifteen days after other service directed by the court. In cases in which the family court has jurisdiction pursuant to subdivision (1) of subsection 1 of section 211.031, RSMo, the juvenile officer, in addition to the parties listed above, is also entitled to file with the court a motion for a hearing by a judge of the family court within fifteen days after receiving notice of the findings of the commissioner. The judge shall promptly rule on such motion and, in his discretion, may either sustain or deny the motion, and if the motion is sustained, the judge shall set a date for a hearing. If the motion for rehearing is not ruled on within forty-five days after the motion is filed, it is denied for all purposes. In computing the forty-five days, no day shall be counted during which the court lacks power to act because of an order of a superior court.]

[487.040. 1. The administrative judge of the family court, or in circuits or counties which have a family court pursuant to subsection 2 of section 487.010 having one judge sitting as family court judge, the judge of the family court may direct that any case or class of cases may be heard by the commissioner in the manner provided for hearing of cases by law.

2. The circuit and associate circuit judges en banc may designate by order the location within the geographical jurisdiction of the court where the commissioners shall conduct hearings, provided, in circuits with split venue, one or more commissioners shall be assigned and shall conduct hearings in each venue with the exception of proceedings

brought pursuant to the provisions of chapter 210, RSMo, or chapter 211, RSMo.]

487.050. 1. To the extent feasible, judges designated as family court judges [and the commissioners appointed under sections 487.020 to 487.040] shall be [those] **judges** who:

- (1) Desire to be so assigned;
- (2) Have the temperament necessary to deal properly with cases that come before the family court;
- (3) Have completed, or within six months after designation or appointment complete, a course of training in family law;
- (4) Attend annual continuing education courses to further training in family issues and law.

2. The qualifications contained in this section of any person designated as family court judge [or appointed commissioner shall be reviewable] **may be reviewed** within the superintending control vested in the supreme court and the districts of the court of appeals by article V, section 4 of the Constitution of Missouri.

3. [The commissioners shall act at all times in a manner befitting a member of the bench. The commissioner shall devote full time to the duties of commissioner and shall not engage in the private practice of law.

4. A commissioner may be removed from office during a term by a majority of the circuit and associate circuit judges en banc upon proof at a hearing before such judges of crime, misconduct, habitual drunkenness, willful neglect of duty, corruption in office, incompetency or any offense involving moral turpitude or oppression in office or unsatisfactory performance of duties.

5.] Judges designated as family court judges shall serve in such capacity for a term of four years unless such judge's term is either extended at such family court judge's option or shortened with the agreement of the family court judge and the presiding judge.

487.170. 1. A "Family Services and Justice Fund" is hereby established in each county or circuit with a family court, for the purpose of aiding with the operation of the family court divisions and services provided by those divisions. In circuits or counties having a family court, the circuit clerk shall charge and collect a surcharge of thirty dollars, in all proceedings falling within the jurisdiction of the family court. The surcharge shall not be charged when no court costs are otherwise required, shall not be charged for actions filed pursuant to the provisions of chapter 455, RSMo, shall not be charged to a government agency, and shall not be charged in any proceeding when costs are waived or are to be paid by the state, county or municipality.

2. In juvenile proceedings under chapter 211, RSMo, a judgment of up to thirty dollars may be assessed against the child, parent or custodian of the child, in addition to other amounts authorized by law, in informal adjustments made under the provisions of sections 211.081 and 211.083, RSMo, and in an order of disposition or treatment under the provisions of section 211.181,

RSMo. The judgment may be ordered paid to the clerk of the circuit where the assessment is imposed and shall be collected and disbursed in the manner provided by [section 514.015] **sections 488.010 to 488.020**, RSMo.

3. All sums collected pursuant to this section and section 487.140 shall be payable to the various county family services and justice funds.

4. Any moneys in the family services and justice fund not expended for salaries of [commissioners,] family court administrators[,] and family court staff shall be used toward funding the enhanced services provided as a result of the establishment of a family court; however, it shall not replace or reduce the current and ongoing responsibilities of the counties to provide funding for the courts as required by law. Moneys collected for the family services and justice fund shall be expended for the benefit of litigants and recipients of services in the family court, with priority given to services such as mediation, counseling, home studies, psychological evaluation and other forms of alternative dispute-resolution services. Expenditures shall be made at the discretion of the presiding judge or family court administrative judge, as designated by the circuit and associate circuit judges en banc, for the implementation of the family court system as set forth in this section. No moneys from the family services and justice fund may be used to pay for mediation in any cause of action in which domestic violence is alleged.

5. From the funds collected pursuant to this section and retained in the family services and justice fund, each circuit or county in which a family court commissioner in addition to those commissioners existing as juvenile court commissioners on August 28, 1993, [have been] **was** appointed **prior to the effective date of this act** pursuant to [sections] **section 487.020 [to 487.040,]** shall pay to and reimburse the state for the actual costs of [that portion of] the [salaries] **salary of each** family court [commissioners] **commissioner** appointed pursuant to the provisions of [sections] **section 487.020 [to 487.040.] for each full calendar month that the commissioner is employed in such position. This subsection shall expire and be of no force and effect on and after July 1, 2001.**

6. No moneys deposited in the family services and justice fund may be expended for capital improvements.

535.200. 1. In the twenty-second judicial circuit, upon adoption of an ordinance by the city of St. Louis providing for expenditure of city funds for such purpose, a majority of the circuit judges, en banc, may establish a landlord-tenant court, which shall be a division of the circuit court[, and may authorize the appointment of not more than two landlord-tenant court commissioners. The landlord-tenant court commissioners shall be appointed by a landlord-tenant court judicial commission consisting of the presiding judge of the circuit, who shall be the chair, one circuit judge elected by the circuit judges, one associate circuit judge elected by the associate circuit judges of the circuit, and two members appointed by the mayor of the city of St. Louis, each of whom shall represent one of the two political parties casting the highest number of votes at the

next preceding gubernatorial election. The procedures and operations of the landlord-tenant court judicial commission shall be established by circuit court rule.

2. Landlord-tenant commissioners may be authorized to hear in the first instance disputes involving landlords and their tenants. Landlord-tenant commissioners shall be authorized to make findings of fact and conclusions of law, and to issue orders for the payment of money, for the giving or taking of possession of residential property and any other equitable relief necessary to resolve disputes governed by the laws in chapters 441, 524, 534, RSMo, and this chapter. Landlord-tenant commissioners may not, by ex parte means, hear cases and issue orders.

3. Landlord-tenant commissioners shall be licensed to practice law in this state and shall serve at the pleasure of a majority of the circuit and associate circuit judges, en banc, and shall be residents of the city of St. Louis, and shall receive as annual compensation an amount equal to one-third of the annual compensation of an associate circuit judge. Landlord-tenant commissioners shall not accept or handle cases in their practice of law which are inconsistent with their duties as a landlord-tenant commissioner and shall not be a judge or prosecutor for any other court. Landlord-tenant commissioners shall not be considered state employees and shall not be members of the state employees' or judicial retirement system or be eligible to receive any other employment benefit accorded state employees or judges].

[4.] **2.** A majority of the judges of the circuit, en banc, shall establish operating procedures for the landlord-tenant court. Proceedings in the landlord-tenant court shall be conducted as in cases tried before an associate circuit judge. The hearing shall be [before a landlord-tenant commissioner] **conducted** without a jury, and the [commissioner] **court** shall assume an affirmative duty to determine the merits of the evidence presented and the defenses of the defendant and may question parties and witnesses. Clerks and computer personnel shall be assigned as needed for the efficient operation of the court.

[5. The parties to a cause of action before a commissioner of the landlord-tenant court are entitled to file with the court a motion for a hearing in associate circuit court within ten days after the mailing, or within ten days after service.

6.] **3.** Operating procedures shall be provided for electronic recording of proceedings at city expense. [Any person aggrieved by a judgment in a case decided under this section shall have a right to a trial de novo in circuit court, or an appeal to the appropriate appellate court, in the same manner as would a person aggrieved by a decision of an associate circuit judge under section 535.110. The procedures for perfecting the right of a trial de novo or appeal shall be the same as that provided pursuant to sections 512.180 to 512.320, RSMo.

7. Any summons issued for the proceedings in the landlord-tenant court shall have a return date of ten days. The sheriff must attempt to serve any summons within four days of the date of issuance.

8.] **4.** All costs to establish and operate a landlord-tenant court under this section shall

be borne by the city of St. Louis.

535.210. 1. In the sixteenth judicial circuit, upon adoption of an ordinance by Jackson County providing for expenditure of county funds for such purpose, a majority of the circuit court judges, en banc, may establish a landlord-tenant court, which shall be a division of the circuit court[, and may authorize the appointment of not more than two landlord-tenant court commissioners. The landlord-tenant court commissioners shall be appointed by a landlord-tenant court judicial commission consisting of the presiding judge of the circuit, who shall be the chair, one circuit judge elected by the circuit judges, one associate circuit judge elected by the associate circuit judges of the circuit, and two members appointed by the county executive of Jackson County, each of whom shall represent one of the two political parties casting the highest number of votes at the next preceding gubernatorial election. The procedures and operations of the landlord-tenant court judicial commission shall be established by circuit court rule.

2. Landlord-tenant commissioners may be authorized to hear in the first instance disputes involving landlords and their tenants. Landlord-tenant commissioners shall be authorized to make findings of fact and conclusions of law, and to issue orders for the payment of money, for the giving or taking of possession of residential property and any other equitable relief necessary to resolve disputes governed by the laws in chapters 441, 524, 534, RSMo, and this chapter. Landlord-tenant commissioners may not, by ex parte means, hear cases and issue orders.

3. Landlord-tenant commissioners shall be licensed to practice law in this state and shall serve at the pleasure of a majority of the circuit and associate circuit judges, en banc, and shall be residents of Jackson County, and shall receive as annual compensation an amount equal to one-third of the annual compensation of an associate circuit judge. Landlord-tenant commissioners shall not accept or handle cases in their practice of law which are inconsistent with their duties as a landlord-tenant commissioner and shall not be a judge or prosecutor for any other court. Landlord-tenant commissioners shall not be considered state employees and shall not be members of the state employees' or judicial retirement system or be eligible to receive any other employment benefit accorded state employees or judges].

[4.] **2.** A majority of the judges of the circuit court, en banc, shall establish operating procedures for the landlord-tenant court. Proceedings in the landlord-tenant court[,] shall be conducted as in cases tried before an associate circuit judge. The hearing shall be [before a landlord-tenant commissioner] **conducted** without a jury, and the [commissioner] **court** shall assume an affirmative duty to determine the merits of the evidence presented and the defenses of the defendant and may question parties and witnesses. Clerks and computer personnel shall be assigned as needed for the efficient operation of the court.

[5. The parties to a cause of action before a commissioner of the landlord-tenant court are entitled to file with the court a motion for a hearing in associate circuit court within ten days after the mailing, or within ten days after service.

6.] **3.** Operating procedures shall be provided for electronic recording of proceedings at county expense. [Any person aggrieved by a judgment in a case decided under this section shall have a right to a trial de novo in circuit court, or an appeal to the appropriate appellate court, in the same manner as would a person aggrieved by a decision of an associate circuit judge under section 535.110. The procedures for perfecting the right of a trial de novo or appeal shall be the same as that provided pursuant to sections 512.180 to 512.320, RSMo.

7. Any summons issued for the proceedings in the landlord-tenant court shall have a return date of ten days from the date of service. The sheriff must attempt to serve any summons within four days of the date of issuance.

8.] **4.** All costs to establish and operate a landlord-tenant court under this section shall be borne by Jackson County.

Section B. Because of the need to clarify the authority of judicial officers to enter judgments, orders and decrees, the authority of presiding judges of circuit courts to assign judicial personnel and the supreme court to superintend the judiciary, the enactment of section 478.037, the repeal of sections 487.030 and 487.040, and the repeal and reenactment of sections 66.010, 211.023, 478.003, 478.265, 478.266, 478.267, 478.268, 478.466, 479.500, 487.020, 487.050, 487.170, 535.200 and 535.210 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the enactment of section 478.037, the repeal of sections 487.030 and 487.040, and the repeal and reenactment of sections 66.010, 211.023, 478.003, 478.265, 478.266, 478.267, 478.268, 478.466, 479.500, 487.020, 487.050, 487.170, 535.200 and 535.210 of this act shall be in full force and effect upon their passage and approval.

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