SENATE BILL NO. 1060

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BARTLE.

Read 1st time March 1, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

4213S.03I

AN ACT

To repeal sections 478.240, 478.245, and 517.081, RSMo, and to enact in lieu thereof three new sections relating to court procedures.

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

Section A. Sections 478.240, 478.245, and 517.081, RSMo, are repealed
2 and three new sections enacted in lieu thereof, to be known as sections 478.240,
3 478.245, and 517.081, to read as follows:

478.240. 1. The presiding judge of each circuit which is provided by
2 subsection 3 of section 15 of article V of the constitution shall be selected for a
3 two-year term. The circuit and associate circuit judges in each circuit shall select
4 by secret ballot a circuit judge from their number to serve as presiding
5 judge. Selection and removal procedures, not inconsistent with the rules of the
6 supreme court, may be provided by local court rule. If a presiding judge is
7 disqualified from acting as a judicial officer pursuant to the constitution, article
8 V, section 24, the circuit judges and associate circuit judges of the circuit shall
9 select a circuit judge as presiding judge. If the circuit does not have an eligible
10 judge to be elected presiding judge, then the chief justice of the supreme court
11 may designate an acting presiding judge until a successor is chosen or until the
12 disability of the presiding judge terminates.

13 2. Subject to the authority of the supreme court and the chief justice
14 under article V of the constitution, the presiding judge of the circuit shall have
15 general administrative authority over all judicial personnel and court officials in
16 the circuit, including the authority to assign any judicial or court personnel
17 anywhere in the circuit, and shall have the authority to assign judges to hear
18 such cases or classes of cases as the presiding judge may designate, and to assign

19   judges to divisions. Such assignment authority shall include the authority to
20   authorize particular associate circuit judges to hear and determine cases or
21   classes of cases. By this subsection the presiding judge shall not, however, be
22   authorized to make the following assignments:

23   (1) Assignment of a municipal judge to hear any case other than to
24   initially hear a municipal ordinance violation case of the municipality which
25   makes provision for such municipal judge, except that the presiding judge of a
26   circuit may assign a municipal judge of a municipality within the circuit to hear
27   and determine municipal ordinance violations in a court of another municipality
28   within the circuit if the municipality to which the judge is especially assigned by
29   the presiding judge has made provision for the compensation of such judge;

30   (2) **[**Assignment of a judge to hear the trial of a felony case when he has
31   previously conducted the preliminary hearing in that case;

32   (3)**]** Assignment of a case to a judge contrary to provisions of supreme
33   court rules or local circuit court rules; and

34   **[**(4)**] (3)** Assignment of a case or class of cases not within the class of
35   cases specified in section 472.020, RSMo, to a circuit judge who is also judge of
36   the probate division and who was on January 1, 1979, a probate judge shall only
37   be with the consent of such judge of the probate division.

38   3. If any circuit judge or associate circuit judge shall proceed to hear and
39   determine any case or class of cases which has not been assigned to him by the
40   presiding judge pursuant to subsection 1 or 2 of this section, or to which he had
41   not been transferred by the chief justice of the supreme court, or in the event the
42   purported assignment to him shall be determined to be defective or deficient in
43   any manner, any order or judgment he may have entered may be set aside, as
44   otherwise provided by rule or by law, and the judge may be subject to discipline
45   under article V, section 24 of the Missouri Constitution, but he shall not be
46   deemed to have acted other than as a judicial officer because of any such absence,
47   defect or deficiency of assignment under this section, or transfer by the chief
48   justice.

      478.245. 1. Subject to the provisions of article V of the constitution and
2   authority exercised under such provisions, the circuit judges of the circuit may
3   adopt local court rules which provide:

4   (1) Cases or classes of cases that may or shall be assigned to particular
5   divisions of the circuit court;

6   (2) Filing (including the place of filing) and assignment systems for the

7 circuit court of each county which may include: (a) centralized filing procedures

8 for cases which are heard by circuit judges; (b) centralized assignment procedures

9 or individualized docketing procedures for cases or classes of cases which are

10 heard by circuit judges; and (c) filing and assignment procedures for cases which

11 are heard by municipal judges.

12   2. Notwithstanding the provisions of subsection 1 of this section, no such

13 local circuit court rule:

14   (1) Shall provide for assignments which a presiding judge is prohibited

15 from making by subdivisions (1)**[**, (2) and (4)**] and (3)** of subsection 2 of section

16 478.240 or which are contrary to provisions of supreme court rules;

17   (2) Shall provide for the maintenance of the permanent case records and

18 judgments of the circuit court other than with the circuit clerk, except records

19 with respect to probate cases, misdemeanor and municipal ordinance violation

20 cases, records in felony cases before the filing of an information, and records in

21 cases within the categories of cases specified in subdivisions (1), (2) and (3) of

22 subsection 1 of section 517.011, RSMo; and

23   (3) Shall provide for the filing of cases or the maintenance of the

24 permanent records in cases which are heard by municipal judges outside of the

25 municipality providing the municipal judge, except in those situations where

26 there is a trial de novo or the municipality consents to such filing or maintenance

27 of records.

28   3. Local circuit court rules shall be adopted by a majority of the circuit

29 judges of the circuit. A copy of each circuit court rule certified by the presiding

30 judge of the circuit shall be filed with the circuit clerk and the clerk of the

31 supreme court, and shall not become effective until so filed. Each local circuit

32 court rule adopted prior to January 2, 1979, shall cease to be effective sixty days

33 after that date if a copy thereof certified by the presiding judge of the circuit is

34 not filed with the clerk of the supreme court during that period of time.

35   4. Subject to the provisions of article V of the constitution and authority

36 exercised under such provisions, a majority of circuit and associate circuit judges

37 of the circuit by order may provide for: (1) centralized filing or divisional filing

38 of cases or classes of cases which are heard by associate circuit judges; and (2)

39 centralized assignment procedures or individualized docketing procedures of cases

40 or classes of cases which are heard by associate circuit judges. A copy of each

41 such order certified by the presiding judge of the circuit shall be filed with the

42 circuit clerk and the clerk of the supreme court, and shall not become effective

43   until so filed.

517.081. A case **[**shall**] may** be certified for assignment by the presiding

2   judge of the circuit or in accordance with local rules when:

3   (1) A party files a petition, a counterclaim, cross claim or third-party

4   petition that independently exceeds the jurisdiction of cases triable under this

5   chapter; or

6   (2) Consolidation of cases appears proper, and such consolidation would

7   result in a claim exceeding the jurisdictional limit of **[**the division**] this chapter**.