

SECOND REGULAR SESSION

# SENATE BILL NO. 855

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WIELAND.

Read 1st time January 9, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4714S.011

## AN ACT

To repeal sections 478.240, 483.240, 483.241, and 483.245, RSMo, and to enact in lieu thereof four new sections relating to circuit clerks.

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

Section A. Sections 478.240, 483.240, 483.241, and 483.245, RSMo, are  
2 repealed and four new sections enacted in lieu thereof, to be known as sections  
3 478.240, 483.240, 483.241, and 483.245, 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, **excluding any elected or appointed circuit clerk**, including the  
17 authority to assign any judicial or court personnel anywhere in the circuit, and  
18 shall have the authority to assign judges to hear such cases or classes of cases as

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

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

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

31 (2) Assignment of a judge to hear the trial of a felony case when he or she  
32 has previously conducted the preliminary hearing in that case, unless the  
33 defendant has signed a written waiver permitting the same judge to hear both the  
34 preliminary hearing and the trial, or unless the defendant has indicated on the  
35 record that the defendant is permitting the same judge to hear both the  
36 preliminary hearing and the trial;

37 (3) Assignment of a case to a judge contrary to provisions of supreme  
38 court rules or local circuit court rules; [and]

39 (4) Assignment of a case or class of cases not within the class of cases  
40 specified in section 472.020 to a circuit judge who is also judge of the probate  
41 division and who was on January 1, 1979, a probate judge shall only be with the  
42 consent of such judge of the probate division; and

43 **(5) Assignment of any administrative or supervisory role within**  
44 **the circuit clerk's office. Such assignment shall be the obligation of the**  
45 **circuit clerk pursuant to this section, chapter 483, and provisions of the**  
46 **supreme court rules.**

47 3. If any circuit judge or associate circuit judge shall proceed to hear and  
48 determine any case or class of cases which has not been assigned to him or her  
49 by the presiding judge pursuant to subsection 1 or 2 of this section, or to which  
50 he or she had not been transferred by the chief justice of the supreme court, or  
51 in the event the purported assignment to him or her shall be determined to be  
52 defective or deficient in any manner, any order or judgment he or she may have  
53 entered may be set aside, as otherwise provided by rule or by law, and the judge  
54 may be subject to discipline under Article V, Section 24 of the Missouri

55 Constitution, but he or she shall not be deemed to have acted other than as a  
56 judicial officer because of any such absence, defect or deficiency of assignment  
57 under this section, or transfer by the chief justice.

483.240. Each circuit clerk shall have administrative control over, and be  
2 responsible for, the safekeeping of the records of the circuit court of each county  
3 or of the city of St. Louis, except for [the following:

- 4 (1) Records in probate divisions;
- 5 (2) Records in cases while they are pending in divisions presided over by  
6 an associate circuit judge; provided, however, this subdivision (2) shall not apply  
7 to cases pending before associate circuit judges in the circuit court of the city of  
8 St. Louis;
- 9 (3)] records in cases while they are pending in the municipal divisions[;  
10 and
- 11 (4) Records of the traffic violation bureaus.

12 2. Associate circuit judges and judges of the probate divisions who are  
13 authorized to appoint division clerks shall have administrative control over the  
14 division clerks they appoint and the records of their divisions. With respect to  
15 divisions which are staffed by division clerks rather than by the circuit clerk or  
16 deputy circuit clerks, the judge appointing the division clerks for that division  
17 shall designate a chief division clerk who shall be primarily responsible for the  
18 safekeeping of the records of that division]. **The circuit clerk shall have**  
19 **administrative control over the deputy circuit clerks and division**  
20 **clerks as provided in section 483.241.**

483.241. 1. Deputy circuit clerks shall constitute the clerical staff of the  
2 circuit clerk to perform those duties for which the circuit clerk has general  
3 administrative control. **Deputy circuit clerks are the general staff of the**  
4 **circuit clerk.**

5 2. Division clerks shall constitute the clerical staff of the circuit court to  
6 perform the recordkeeping functions of the circuit court for which the circuit clerk  
7 [does not have] **has** general administrative control[, except with respect to  
8 records in cases while they pend in municipal divisions or in a traffic violations  
9 bureau maintained by a municipality. Division clerks shall be under the  
10 administrative control of the judge who appoints them]. **Division clerks are**  
11 **deputy circuit clerks assigned by the circuit clerk to a specific**  
12 **courtroom or judge to perform the duties and responsibilities for that**  
13 **specific division.**

14           3. Municipal clerks shall constitute the clerical staff of the circuit court  
15 to perform the recordkeeping functions in the municipal divisions.

16           4. Municipal clerks shall perform the clerical functions in the traffic  
17 violation bureaus in those municipalities which have a municipal judge or  
18 judges. Clerical personnel of the municipality shall perform the clerical functions  
19 of the traffic violation bureaus in those municipalities which have no municipal  
20 judges.

          483.245. 1. The provisions of this section shall become effective on July  
2 1, 1981.

3           2. The circuit clerk, or person exercising the authority of the circuit clerk  
4 pursuant to county charter, shall **be the appointing authority and** appoint all  
5 deputy circuit clerks **and division clerks**, including deputy circuit clerks  
6 serving in courtrooms, and shall prescribe and assign the duties of such deputy  
7 circuit clerks. The circuit clerk may remove from office any deputy circuit clerk  
8 **or division clerk** whom he appoints. [All division clerks, as defined in section  
9 483.241, shall be appointed by the judge of the division such clerks serve, and  
10 such judge may remove from office any division clerk whom he appoints.]

11           3. Notwithstanding the provisions of subsection 2 of this section, if, on  
12 June 30, 1981, in any county or in the city of St. Louis, there exists by reason of  
13 local charter, a plan of merit selection and retention or other similar personnel  
14 plan, providing for selection, tenure or retention of deputy circuit clerks or  
15 division clerks, after July 1, 1981, as to clerical personnel who were, on June 30,  
16 1981, under such a plan, the provisions for merit retention and tenure shall  
17 continue to apply as to such persons insofar as is reasonably possible even though  
18 they are paid by the state and become state employees, and the circuit [court en  
19 banc] **clerk** shall be considered as the commission or [board] **authority** for  
20 determining the propriety of any disciplinary or dismissal action.

21           4. [In addition to the authority to remove deputy circuit clerks and  
22 division clerks hereinabove provided, the circuit court en banc may remove from  
23 office a deputy circuit clerk or division clerk for cause.

24           5. The maximum number of deputy circuit clerks for each county and the  
25 maximum number of division clerks for a particular division shall be determined  
26 by order of the circuit court en banc. Such order may be modified for cause by  
27 order of the supreme court, or if no order is entered providing for the number of  
28 deputy circuit clerks and division clerks, the supreme court may enter such order.

29           6.] The salaries of deputy circuit clerks and division clerks shall be

30 established by the circuit clerk in the case of deputy circuit clerks[, or the judge  
31 appointing the division clerk in the case of] **and** division clerks, within salary  
32 ranges and classifications which may from time to time be established by  
33 administrative rule of the supreme court within the limit of funds appropriated  
34 for this purpose. The salaries of deputy circuit clerks and division clerks shall  
35 be paid by the state, and they shall be state employees.

36 [7.] **5.** Notwithstanding the other provisions of this section providing for  
37 the establishment of the number of deputy circuit clerks and division clerks  
38 serving the various circuit courts and the determination of their salaries, such  
39 determinations shall not be construed as mandating appropriations to fund such  
40 positions, and the payment of the salaries and emoluments of deputy circuit  
41 clerks and division clerks shall be subject to the availability of moneys  
42 appropriated for those purposes by the general assembly or federal grant moneys.

43 [8. For purposes of this section, the circuit court en banc shall be deemed  
44 to include all circuit and associate circuit judges of the entire circuit, and  
45 determinations or orders of the circuit court en banc shall be by action of a  
46 majority of such judges in office.]

Bill ✓

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