

FIRST REGULAR SESSION

# SENATE BILL NO. 366

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR WIELAND.

0051S.02I

ADRIANE D. CROUSE, Secretary

## 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  
2 483.245, RSMo, are repealed and four new sections enacted in  
3 lieu thereof, to be known as sections 478.240, 483.240, 483.241,  
4 and 483.245, to read as follows:

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

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

17           2. Subject to the authority of the supreme court and  
18 the chief justice under Article V of the Constitution, the  
19 presiding judge of the circuit shall have general  
20 administrative authority over [all judicial personnel and]  
21 court officials in the circuit, including the authority to  
22 assign [any judicial or court personnel anywhere in the  
23 circuit, and shall have the authority to assign] judges to  
24 hear such cases or classes of cases as the presiding judge  
25 may designate, and to assign judges to divisions. Such  
26 assignment authority shall include the authority to  
27 authorize particular associate circuit judges to hear and  
28 determine cases or classes of cases. By this subsection the  
29 presiding judge shall not, however, be authorized to make  
30 the following assignments:

31           (1) Assignment of a municipal judge to hear any case  
32 other than to initially hear a municipal ordinance violation  
33 case of the municipality which makes provision for such  
34 municipal judge, except that the presiding judge of a  
35 circuit may assign a municipal judge of a municipality  
36 within the circuit to hear and determine municipal ordinance  
37 violations in a court of another municipality within the  
38 circuit if the municipality to which the judge is especially  
39 assigned by the presiding judge has made provision for the  
40 compensation of such judge;

41           (2) Assignment of a judge to hear the trial of a  
42 felony case when he or she has previously conducted the  
43 preliminary hearing in that case, unless the defendant has  
44 signed a written waiver permitting the same judge to hear  
45 both the preliminary hearing and the trial, or unless the  
46 defendant has indicated on the record that the defendant is  
47 permitting the same judge to hear both the preliminary  
48 hearing and the trial;

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

52           (4) Assignment of a case or class of cases not within  
53 the class of cases specified in section 472.020 to a circuit  
54 judge who is also judge of the probate division and who was  
55 on January 1, 1979, a probate judge shall only be with the  
56 consent of such judge of the probate division; **and**

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

62           3. If any circuit judge or associate circuit judge  
63 shall proceed to hear and determine any case or class of  
64 cases which has not been assigned to him or her by the  
65 presiding judge pursuant to subsection 1 or 2 of this  
66 section, or to which he or she had not been transferred by  
67 the chief justice of the supreme court, or in the event the  
68 purported assignment to him or her shall be determined to be  
69 defective or deficient in any manner, any order or judgment  
70 he or she may have entered may be set aside, as otherwise  
71 provided by rule or by law, and the judge may be subject to  
72 discipline under Article V, Section 24 of the Missouri  
73 Constitution, but he or she shall not be deemed to have  
74 acted other than as a judicial officer because of any such  
75 absence, defect or deficiency of assignment under this  
76 section, or transfer by the chief justice.

          483.240. [1.] Each circuit clerk shall have  
2 administrative control over, and be responsible for, the  
3 safekeeping of the records of the circuit court of each

4 county or of the city of St. Louis, except for [the  
5 following:

6 (1) Records in probate divisions;

7 (2) Records in cases while they are pending in  
8 divisions presided over by an associate circuit judge;  
9 provided, however, this subdivision (2) shall not apply to  
10 cases pending before associate circuit judges in the circuit  
11 court of the city of St. Louis;

12 (3)] records in cases while they are pending in the  
13 municipal divisions[; and

14 (4) Records of the traffic violation bureaus.

15 2. Associate circuit judges and judges of the probate  
16 divisions who are authorized to appoint division clerks  
17 shall have administrative control over the division clerks  
18 they appoint and the records of their divisions. With  
19 respect to divisions which are staffed by division clerks  
20 rather than by the circuit clerk or deputy circuit clerks,  
21 the judge appointing the division clerks for that division  
22 shall designate a chief division clerk who shall be  
23 primarily responsible for the safekeeping of the records of  
24 that division]. **The circuit clerk shall have administrative**  
25 **control over the deputy circuit clerks and division clerks**  
26 **as provided in subsection 1 of section 483.241.**

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

6 2. Division clerks shall constitute the clerical staff  
7 of the circuit [court] **clerk** to perform the recordkeeping  
8 functions of the circuit court for which the circuit clerk  
9 [does not have] **has** general administrative control[, except

10 with respect to records in cases while they pend in  
11 municipal divisions or in a traffic violations bureau  
12 maintained by a municipality. Division clerks shall be  
13 under the administrative control of the judge who appoints  
14 them]. **Division clerks shall be deputy circuit clerks**  
15 **assigned by the circuit clerk to a specific courtroom or**  
16 **judge to perform the duties and responsibilities for that**  
17 **specific division.**

18 3. Municipal clerks shall constitute the clerical  
19 staff of the circuit court to perform the recordkeeping  
20 functions in the municipal divisions.

21 4. Municipal clerks shall perform the clerical  
22 functions in the traffic violation bureaus in those  
23 municipalities which have a municipal judge or judges.  
24 Clerical personnel of the municipality shall perform the  
25 clerical functions of the traffic violation bureaus in those  
26 municipalities which have no municipal judges.

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

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

14 3. Notwithstanding the provisions of subsection 2 of  
15 this section, if, on June 30, 1981, in any county or in the

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

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

32 5. The maximum number of deputy circuit clerks for  
33 each county and the maximum number of division clerks for a  
34 particular division shall be determined by order of the  
35 circuit court en banc. Such order may be modified for cause  
36 by order of the supreme court, or if no order is entered  
37 providing for the number of deputy circuit clerks and  
38 division clerks, the supreme court may enter such order.

39 6.] The salaries of deputy circuit clerks and division  
40 clerks shall be established by the circuit clerk in the case  
41 of deputy circuit clerks[, or the judge appointing the  
42 division clerk in the case of] **and** division clerks, within  
43 salary ranges and classifications which may from time to  
44 time be established by administrative rule of the supreme  
45 court within the limit of funds appropriated for this  
46 purpose. The salaries of deputy circuit clerks and division

47 clerks shall be paid by the state, and they shall be state  
48 employees.

49 [7.] 5. Notwithstanding the other provisions of this  
50 section providing for the establishment of the number of  
51 deputy circuit clerks and division clerks serving the  
52 various circuit courts and the determination of their  
53 salaries, such determinations shall not be construed as  
54 mandating appropriations to fund such positions, and the  
55 payment of the salaries and emoluments of deputy circuit  
56 clerks and division clerks shall be subject to the  
57 availability of moneys appropriated for those purposes by  
58 the general assembly or federal grant moneys.

59 [8. For purposes of this section, the circuit court en  
60 banc shall be deemed to include all circuit and associate  
61 circuit judges of the entire circuit, and determinations or  
62 orders of the circuit court en banc shall be by action of a  
63 majority of such judges in office.]

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