

SECOND REGULAR SESSION

HOUSE BILL NO. 1607

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DIEHL.

4040L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 478.240, RSMo, and to enact in lieu thereof one new section relating to the presiding judge's authority to make certain judicial assignments.

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

Section A. Section 478.240, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 478.240, to read as follows:

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

2. Subject to the authority of the supreme court and the chief justice under article V of the constitution, the presiding judge of the circuit shall have general administrative authority over all judicial personnel and court officials in the circuit, including the authority to assign any judicial or court personnel anywhere in the circuit, and shall have the authority to assign judges to hear such cases or classes of cases as the presiding judge may designate, and to assign judges to divisions. Such assignment authority shall include the authority to authorize particular

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 associate circuit judges to hear and determine cases or classes of cases. By this subsection the
18 presiding judge shall not, however, be authorized to make the following assignments:

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

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

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

29 [(4)] **3.** Assignment of a case or class of cases not within the class of cases specified in
30 section 472.020, RSMo, to a circuit judge who is also judge of the probate division and who was
31 on January 1, 1979, a probate judge shall only be with the consent of such judge of the probate
32 division.

33 [3.] **4.** If any circuit judge or associate circuit judge shall proceed to hear and determine
34 any case or class of cases which has not been assigned to him by the presiding judge pursuant
35 to subsection 1 or 2 of this section, or to which he had not been transferred by the chief justice
36 of the supreme court, or in the event the purported assignment to him shall be determined to be
37 defective or deficient in any manner, any order or judgment he may have entered may be set
38 aside, as otherwise provided by rule or by law, and the judge may be subject to discipline under
39 article V, section 24 of the Missouri Constitution, but he shall not be deemed to have acted other
40 than as a judicial officer because of any such absence, defect or deficiency of assignment under
41 this section, or transfer by the chief justice.

✓