

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1607
95TH GENERAL ASSEMBLY

4040L.02C

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Section A. Section 478.240, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 478.240, to read as follows: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 associate circuit judges to hear and determine cases or classes of cases. By this subsection the presiding judge shall not, however, be authorized to make the following assignments:

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.

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 **or she** has previously
26 conducted the preliminary hearing in that case, **unless the defendant has signed a written**
27 **waiver stating that he or she waives any right to object or argue about any potential**
28 **conflict that might occur as a result of having the same judge hear both the preliminary**
29 **hearing and the trial;**

30 (3) Assignment of a case to a judge contrary to provisions of supreme court rules or local
31 circuit court rules; and

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

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

✓