



# **Missouri Courts A Guide to Municipal Divisions in Cities and Towns**



## **Questions & Answers for City Officials**

- Legal Status of Municipal Divisions
- Responsibility and Authority of Judges
- Fines, Fees, and Bail Determination
- Management of Staff by the Court
- Minimum Operating Standards
- Courthouse Facilities and Security
- Police, Prosecutor, Court Interaction

## **Working with Municipal Divisions of the Circuit Court**

**LEGAL STATUS:** The Missouri Constitution mandates that all state courts are part of the judicial branch of state government, and ultimately accountable to the Supreme Court of Missouri. By law, municipal courts are divisions of the circuit court and therefore subject to the direct oversight of the presiding judges of the circuit courts.

**JUDGE AUTHORITY:** Municipal judges are required to administer their divisions as independent courts of law. In that role, judges are obligated to monitor and manage the operations, staff, budget, space, records, and security of the court. They cannot delegate those duties to city officials.

**FINES, FEES:** Municipal divisions can only collect fines, fees and surcharges for traffic and ordinance violations as permitted by law. For minor traffic violations, fines and fees cannot exceed \$225 per charge. Courts should be entirely and sufficiently funded from general revenue sources apart from fines and fees levied and collected by the court. Under no circumstances should judicial or court performance be measured by or related to revenue generation.

**BAIL:** Municipal divisions should use a certified risk assessment questionnaire to aid in pretrial release decisions. No one should remain in custody because they are indigent and cannot afford to post bail. Release decisions must be made by a judge within 24 hours of an arrest if the arrest is not the result of a warrant. According to law, if an arrest is the result of a warrant, the defendant must be brought "as soon as practicable" before the court that issued it.

**BUDGETING:** The municipal division budget should be developed by the presiding municipal judge and chief court clerk or court administrator and submitted to city management in the same fashion as other major city agencies. The presiding municipal judge should be given the opportunity to formally present the court's budget to the mayor and city council. The city has the responsibility to conscientiously fund the court without regard to the fines and fees generated by the court.

The city should provide funding for the court in a manner that allows the presiding municipal judge budgetary discretion similar to the city manager or the chief executive officer of a municipality. This will prevent placing a city official in the role of approving the court's expenditures.

**COURT EMPLOYEES:** Full, part-time and temporary court employees are subject to the control of the court. The presiding municipal judge or designee should have exclusive authority to employ, supervise, discipline or remove court employees under applicable city policies that do not conflict with the independence of the court.

**POLICE AND PROSECUTORS':** It is essential that the court function independently from other city justice system agencies, most notably the police department and prosecutor's office. Therefore, no court employee is allowed to job share, split duties or work for a city agency, office or individual that is directly involved in the city's justice system other than the court. In small cities where there may not be full-time work for all court employees, court staff may be permitted to also work part-time for a non-justice system city agency (e.g. public works, planning and zoning, parks and recreation, etc.). Prior to allowing such an arrangement, however, the presiding municipal judge should formally approve any such employment in advance and in writing.



**More than 73% of all criminal and traffic cases filed in Missouri State and local trial courts in FY 2017 were filed in municipal divisions. Source: Missouri Office of the State Courts Administrator (OSCA)**

**CITY ADMINISTRATION:** City authority over the municipal division is limited since the court, once established, is not part of the city or town administration subject to the supervision of city officials or managers. Rather, it is part of the Judicial Branch of Missouri and required to operate as an impartial, unbiased tribunal. Any actions that interfere or may be perceived as interfering with the court's impartial performance of its duties such as improper contact with judges or court staff regarding pending court matters are prohibited.

**JUDICIAL PERFORMANCE REVIEW:** Where municipal judges are appointed by city officials rather than elected, it is recommended that such appointments and reappointments be based upon merit after a formal, objective review process. During an appointed judge's contractual term of office, the judge may only be removed with sufficient cause. At the end of a term, an appointed judge may be removed without cause.

**CONFLICTS OF INTEREST:** Clerks of the court, court administrators, and other full-time, part-time, or temporary nonjudicial court employees are governed in their behavior on or off their jobs by a Code of Conduct for Municipal Division Employees established by the Missouri Supreme Court (Rule 37.04, Appendix B). It prohibits any conduct that could constitute an actual or apparent conflict with the impartial performance of their court duties.

**COURT FACILITIES:** The court facility's exterior and interior design, functionality and signage must clearly convey an appearance that it is a separate and independent branch of government operating under the authority of the Missouri Supreme and Circuit Courts. Court offices should normally be open and available for public business at least 30 hours per week. Where cities are small and sparsely populated, court offices may be permitted more reduced hours of operation upon the formal approval of the presiding circuit court judge of the district in which the municipality is located.

**COURT SECURITY:** The city is responsible for providing court facilities and other resources to ensure a safe environment for judges, staff and the public. The presiding municipal judge is duty bound to assess and bring about reasonable and adequate procedures, technology, security staffing and architectural features that provide for a safe environment.



**Although judges may be appointed by city governments, they are not agents of the city. They are officers of the courts of the State of Missouri. They, and the court staff under their control, are required to operate impartially while maintaining a cooperative relationship with the city. This means municipal divisions are not subject to the supervision of city management in their judicial and court related duties or activities.**

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