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Municipal Court Reform Act of 2004

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MTAS

Municipal Technical Advisory Service

*In cooperation with the
Tennessee Municipal League*



January 31, 2005

MUNICIPAL COURT REFORM ACT OF 2004

Rex Barton, Police Consultant

IMPORTANT CHANGES FOR MUNICIPAL COURTS TO BECOME EFFECTIVE MARCH 1, 2005

During last year's legislative session, the legislature passed a new law, "The Municipal Court Reform Act of 2004." The law becomes effective March 1, 2005, and brings significant change to municipal courts.

There are two changes that cities will have to deal with immediately.

One immediate change is a requirement that cities forward \$1.00 of the court cost they collect on each case to the state. That revenue will be used to fund the training programs for judges and clerks. **The \$1.00 fee is in addition to any litigation tax collected, and it MUST be collected and remitted for EVERY case in which the city collects court costs.** The Department of Revenue has redesigned the litigation tax report form, and there is a new line for this \$1.00 education fee. Cities will have that form in hand in time for the March filing. The fee is not added to the city's court cost, but is paid to the state out of the city's existing court cost.

The new law also clarifies an ambiguous state statute concerning the litigation tax on parking violations. When the Act becomes effective, cities will have to collect a \$1.00 litigation tax for every municipal parking violation, regardless of whether the defendant contests the charge in court. No other litigation tax, state or local, can be collected for parking violations. There will be a line on the litigation tax report form specifically for the municipal parking violation litigation tax.

The Act specifically authorizes cities to adopt any municipal law or ordinance that mirrors, duplicates, or incorporates by reference any state criminal statute if the penalty for a violation of the state law is a fine of \$50 or less and/or confinement for a period of 30 days or less. Generally, these types of state law crimes are considered Class C misdemeanors. The penalty for the municipal ordinance violation cannot be in excess of \$50, and there is no allowance for incarceration. If a city chooses to adopt a state law by reference, it is important that the city refer to a specific state statute. MTAS consultants will be happy to work with cities to determine which state laws the city might want to mirror, duplicate, or adopt by reference.

No municipal judge will be allowed to hold any other office or employment with the city. Current city employees or officers who also serve as judge can continue to do so until they either discontinue serving as judge or discontinue serving as an officer or employee of the city. Several cities have charters calling for the mayor or recorder to serve as municipal judge. Under the new law, mayors and recorders currently serving as judge can continue to do so until they are no longer filling one or the other position. At that time, no other person will be able to serve in both positions in the future. This provision will also prohibit any city attorney from serving as municipal judge for the same city. Those currently serving in both capacities may continue doing so until they leave one of the positions.

The Act defines the process for any city that does not currently have concurrent general sessions court jurisdiction to adopt concurrent jurisdiction. Cities that currently have concurrent general sessions jurisdiction are not affected by the new law. These provisions are quite extensive and will not be described in detail in this hot topic. If a city has an interest in adopting concurrent general sessions jurisdiction for its municipal court, officials should contact their MTAS management consultant for details.

All municipal court judges and municipal court clerks will be required to complete three hours of training each year. The \$1.00 education fee described at the beginning of this hot topic will fund the training programs for judges and clerks. Cities will be responsible for travel costs associated with the training. The Administrative Office of the Courts is responsible for ensuring that clerks and judges receive the annual training. Cities should

expect communications concerning court-training programs from the Administrative Office of the Courts, MTAS, and the Municipal Judges Conference. The training requirement for clerks does not apply if the court clerk is also a municipal clerk who is required to be certified pursuant to T.C.A. § 6-54-120 (certified municipal clerk or recorder).

The Act creates the Tennessee Municipal Judges Conference, which will be the official organization of municipal judges in the state. The conference will meet annually, and every municipal judge will be required to attend unless unable to do so because of physical incapacity. The municipality will be responsible for expenses in attending the annual conference.

At all times there shall be a person appointed, elected, or otherwise designated to serve as clerk of the municipal court. Immediately after such appointment, election, or designation, the chief administrative officer of the municipality shall notify the Administrative Office of the Courts and provide any additional information concerning the clerk as may be required by the administrative director. At the time of publication of this hot topic, the Administrative Office of the Courts has not issued any directive concerning what additional information might be required.

The fine for contempt of court will be increased to \$50, and the Act sets a minimum time period for appeals from municipal court cases at 10 days, excluding Sundays, regardless of any conflicting language in a city's charter or code of ordinances. The amount of the appeal bond is set at \$250. The Act specifically establishes the authority of the city governing body to set court costs for the municipal court.

Cities with a population of 150,000 or more are also authorized to adopt ordinances that mirror, duplicate, or incorporate by reference certain other offenses relating to adult underage drinking or alcohol possession (applies to adults over 18, but not yet 21), driving without a valid license, and reckless driving. These offenses are generally Class A or B misdemeanors. This provision will most likely be addressed by the legislature during the upcoming legislative session, but it is unclear whether the 150,000 population threshold will be altered.

Cities with a population of 10,000 or less must follow certain rules developed by the

Commissioner of Safety if the city enforces traffic laws on any interstate highway. The rules have not been finalized, and MTAS will provide a description of the rules when they are released by the Department of Safety. These rules only apply to traffic enforcement activities on interstate highways by municipal law enforcement agencies in cities with a population of 10,000 or less.

This hot topic provides an overview of the significant parts of the new law. If city officials or employees have any further questions about this new law, they should contact their MTAS management consultant.

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