University of Tennessee, Knoxville
Trace: Tennessee Research and Creative Exchange

MTAS Publications: Hot Topics | Municipal Technical Advisory Service (MTAS)

1-31-2005

Municipal Court Reform Act of 2004

Rex Barton
Municipal Technical Advisory Service, Rex.Barton@tennessee.edu

Follow this and additional works at: http://trace.tennessee.edu/utk_mtastop

Part of the Public Administration Commons

The MTAS publications provided on this website are archival documents intended for informational purposes only and should not be considered as authoritative. The content contained in these publications may be outdated, and the laws referenced therein may have changed or may not be applicable to your city or circumstances.
For current information, please visit the MTAS website at: mtas.tennessee.edu.

Recommended Citation
Barton, Rex, "Municipal Court Reform Act of 2004" (2005). *MTAS Publications: Hot Topics.*
http://trace.tennessee.edu/utk_mtastop/102

This Bulletin is brought to you for free and open access by the Municipal Technical Advisory Service (MTAS) at Trace: Tennessee Research and Creative Exchange. It has been accepted for inclusion in MTAS Publications: Hot Topics by an authorized administrator of Trace: Tennessee Research and Creative Exchange. For more information, please contact trace@utk.edu.

MTAS
Municipal Technical Advisory Service
In cooperation with the Tennessee Municipal League

#111
HOT topic

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.

Rex Barton, Police Consultant

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.

MTAS OFFICES

Knoxville (Headquarters) . . . (865) 974-0411
Johnson City . . . . . (423) 854-9882
(423) 282-0416
Jackson . . . . . (731) 423-3710
Nashville . . . . . (615) 532-6827
Martin. . . . . (731) 587-7057

The Municipal Technical Advisory Service (MTAS) is a statewide agency of The University of Tennessee Institute for Public Service. MTAS operates in cooperation with the Tennessee Municipal League to provide technical assistance services to officials of Tennessee's incorporated municipalities. Assistance is offered in areas such as accounting, administration, finance, public works, ordinance codification, and wastewater management.

MTAS Hot Topics are information briefs that provide a timely review of current issues of interest to Tennessee municipal officials. Hot Topics are free to Tennessee local, state, and federal government officials and are available to others for $2 each. Photocopying of this publication in small quantities for educational purposes is encouraged. For permission to copy and distribute large quantities, please contact the MTAS Knoxville office at (865) 974-0411.

www.mtas.tennessee.edu

The University of Tennessee is an EEO/AA/Title VI/Title IX/Section 504/ADA/ADEA institution.
MTAS0672 • E14-1050-000-167-05