

19 Mo. Prac., Criminal Practice & Procedure § 2:11 (3d ed.)
Missouri Practice Series TM
Criminal Practice And Procedure
Database updated December 2013
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Chapter 2. Jurisdiction And Venue

§ 2:11. Jurisdiction of courts—Municipal divisions and municipal judges

West's Key Number Digest

West's Key Number Digest, Criminal Law ^W 88

West's Key Number Digest, Municipal Corporations ^W 636

Legal Encyclopedias

C.J.S., Municipal Corporations §§ 204 to 205

Municipal judges are subject to the rules of the circuit court,¹ and they have jurisdiction to hear and determine alleged violations of municipal ordinances.² Such violations are not criminal offenses, but are quasi criminal.³

A municipal judge may be a part-time judge, and may serve as such in more than one city, unless prohibited by ordinance or municipal charter.⁴ An associate circuit judge may hear and determine municipal ordinance violations in any municipality in the circuit with a population of less than 400,000 where there is no municipal judge provided for, or where the governing body of the municipality has so requested.⁵ A circuit judge may not hear and determine municipal ordinance violation cases, except upon trial de novo, unless she has been transferred or assigned to hear such case or class of cases by the presiding judge of the circuit court, by local court rule, or by order of the Supreme Court.⁶

Traffic violation bureaus for the payment of fines without physical appearance in court are authorized.⁷ A municipal judge has the power to punish contempt of court.⁸ In cities of the third and fourth class a defendant may request a jury trial, and if so requested the

municipal judge shall certify the case for assignment and the jury trial shall be before an associate circuit judge as in prosecutions for misdemeanors.⁹ Such jury trials shall be on a record, and any appeal therefrom shall be on the record to the appropriate appellate court.¹⁰ If during a trial before a municipal judge it appears to such judge that the accused ought to be tried for a criminal offense, he or she must immediately stop the proceeding and cause a complaint to be made before an associate judge.¹¹

Municipal divisions are courts of limited jurisdiction, and the jurisdiction of the municipality to enact ordinances is limited as well. That power must be granted by statute,¹² by its charter, or by the Constitution. There are also restrictions on what ordinances may be passed.¹³ If the State has preempted a field,¹⁴ cities may enact some ordinances in that field if they are the same as state statutes.¹⁵ A city may also prohibit public solicitation of sexual conduct.¹⁶ Municipal proceedings are governed by Rule 37.

A city, town, or village may elect to have an associate circuit court or county municipal court hear only municipal violations involving an accused with special needs, circumstances, or charges, as designated by the prosecutor on the information. This is only permissible where the associate circuit court or county municipal court has established specialized dockets or courts to accommodate such matters. Examples of accommodations include a mental health court, a housing court, or a DWI court. If the court determines that the accused does not have such special needs, the matter will be transferred back to the municipal court.¹⁷

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Footnotes

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United States Magistrate Judge, Western District Of Missouri And Formerly Professor Of Law At University of Missouri--Columbia.

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Mo. Const. art. V, § 27.1(d); V.A.M.S. § 479.020(5).

2

Mo. Const. Art. V, § 23; V.A.M.S. §§ 478.230 and 479.010. Persons 15 years of age or older charged with traffic violations are not under the jurisdiction of the juvenile court, V.A.M.S. § 211.031(3).

3

State v. Brewer, 549 S.W.2d 642 (Mo.App.1977) (conviction of city ordinance violation can not be used to impeach a witness); Kansas City v. Mathis, 409 S.W.2d 280 (Mo.App.1966).

4

Mo. Const. art. V, § 23. V.A.M.S. § 98.030 (cities of less than 10,000 with a special

charter), and § 479.020 (all cities, towns, and villages). V.A.M.S. §§ 98.030 (cities of less than 10,000 with a special charter); 98.320 (third-class cities); and 479.020 (all cities, towns and villages).

5

Mo. Const. art. V, §§ 23 and 27.9(a); V.A.M.S. §§ 478.255(2) and 479.040.

6

V.A.M.S. § 478.220(1); V.A.M.S. § 479.270 authorizes such assignments.

7

V.A.M.R. 37.49.

8

V.A.M.R. 37.05 and 37.75.

9

V.A.M.S. §§ 479.130 to 479.150.

10

V.A.M.S. § 479.200(3).

11

V.A.M.S. § 479.120.

12

See for example: V.A.M.S. §§ 79.110 and 79.370 to 79.470 (cities of the fourth class); 77.120, 77.200, 77.260, 77.500 to 77.590, 78.570 (cities of the third class); 80.090 and 80.170 (towns and villages); 81.190 (special charter cities); 82.190, 82.230, 82.240, 82.300 and 82.460 (constitutional charter cities); 92.040 and 92.045 (regulation of business in Kansas City and St. Louis); 89.020 (zoning in all cities and towns); and 304.120 (municipal traffic regulations). See also V.A.M.S. § 304.120 (Supp.1984) (Green County).

13

For example, V.A.M.S. § 67.305 prohibits the arrest and punishment for public intoxication unless the city ordinances are in conformity with any state law upon the same subject.

14

V.A.M.S. § 572.100 (gambling); V.A.M.S. § 573.080 (promoting pornography).

15

V.A.M.S. § 567.090.

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V.A.M.S. § 567.090.

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V.A.M.S. § 479.040(1)(2). Special needs due to mental disorder or illness are defined in V.A.M.S. § 630.005.

19 Mo. Prac., Criminal Practice & Procedure § 2:11 (3d ed.)

24 Mo. Prac., Appellate Practice § 13.5 (2d ed.)
Missouri Practice Series TM
Appellate Practice
Database updated October 2014
Daniel P. Card II^{a0}, Alan E. Freed^{a1}, Pocket Part By James R. Layton^{a2}
Chapter 13. Circuit Courts—Appellate Jurisdiction

§ 13.5. Misdemeanors, infractions, and county and municipal ordinance violations

West's Key Number Digest

West's Key Number Digest, Automobiles ^{Key}360

West's Key Number Digest, Criminal Law ^{Key}260.11

Legal Encyclopedias

C.J.S., Motor Vehicles § 596

In addition to hearing certain civil cases, associate circuit judges may hear a variety of other cases, such as misdemeanors, infractions (traffic offenses), and county and municipal ordinance violations. Generally, the associate circuit court is required to hear these cases on the record. In addition, any person aggrieved by a final judgment has the right of appeal to the appropriate appellate court.¹ This right applies to both jury and non-jury cases. The appeal is processed and heard in the same manner as appeals in criminal cases generally.

The only exception is in non-jury cases involving a municipal ordinance. In this instance, an aggrieved defendant has a right to request a trial de novo.² Jury cases are heard on the record, and any appeal is to be taken to the appropriate appellate court. The application for trial de novo, together with the requisite docket fee, must be filed within ten days of the entry of judgment. This time may not be extended, and no application for a trial de novo is allowed if the defendant has paid any part of the fine or costs.³ Otherwise, the same procedures as are applicable to requests for a trial de novo generally apply.

An associate circuit judge is not required to hear all cases involving a violation of a municipal ordinance, nor is an associate circuit judge necessarily required to hear all cases, whether misdemeanor or infraction, that involve violations of state, county, or municipal laws relating to motor vehicles. In 1992, the General Assembly authorized the St. Louis County Circuit Court to establish a traffic court and to appoint traffic court judges.⁴ The enabling statute, V.A.M.S. § 479.500, provides in part:

1. Traffic judges may be authorized to act as commissioners to hear in the first instance non-felony violations of state law involving motor vehicles, and such other offenses as may be provided by circuit court rule. Traffic judges may also be authorized

to hear in the first instance violations of county and municipal ordinances involving motor vehicles, and other county ordinance violations, as provided by circuit court rule.

Municipal code violations may be heard either by a municipal judge or by an associate circuit judge.

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Footnotes

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1

See V.A.M.S. § 543.200, which provides in part:

2. All proceedings upon the trial of infractions before associate circuit judges shall be governed by the practice in criminal cases before circuit judges, so far as the same may be applicable, and in respect to which no provision is made by statute, except that there shall be no right to a jury trial.

See also V.A.M.S. §§ 512.180.2 and 543.335, which provides in part:

In any case tried ... before an associate judge ... , or in any misdemeanor case or county ordinance violation case, a record shall be kept and any person aggrieved by judgment rendered in any such case may have an appeal upon that record to the appropriate appellate court

2

See V.A.M.S. § 479.200, which provides in part:

2. In any case tried before a municipal judge who is licensed to practice law in this state or before an associate circuit judge, except where there has been a plea of guilty or the case has been tried with a jury, the defendant shall have a right of trial de novo before a circuit judge or upon assignment before an associate circuit judge. An application for a trial de novo shall be within ten days after judgment and shall be filed in such form and in such manner as provided by supreme court rule.

3

See Supreme Court Rule 37.71.

4

See V.A.M.S. § 479.500.

24 Mo. Prac., Appellate Practice § 13.6 (2d ed.)
Missouri Practice Series TM
Appellate Practice
Database updated October 2014
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Chapter 13. Circuit Courts—Appellate Jurisdiction

§ 13.6. Municipal and county municipal court divisions

West's Key Number Digest

West's Key Number Digest, Courts ^{key}182 to 190

West's Key Number Digest, Municipal Corporations ^{key}642

Any municipality with a population under 400,000 may elect to have violations of its ordinances heard by either a municipal court judge selected by the municipality or an associate circuit judge. Municipalities with a population in excess of 400,000 must provide to have ordinance violations heard before a municipal court judge.¹ The selection of municipal court judges is to be provided by the municipality's charter or ordinance.²

In addition, first class charter counties may, if authorized by charter, establish a county municipal court to hear county ordinance violations. The county municipal court also has jurisdiction to hear ordinance violations for those municipalities with which the county has contracts to do so.³ Otherwise, cases involving violations of county ordinances are heard in the first instance by an associate circuit judge.

With limited exceptions, a municipal court may not hear a case with a jury.⁴ In the event defendant has a right to a jury trial and so requests, the municipal court must then certify the case to the circuit court for reassignment. The only exceptions are county municipal courts⁵ and those municipal courts for municipalities that have a population in excess of 100,000 and are located within a first class county that does not have a charter form of government.⁶ These municipal courts may conduct jury trials on the record, any appeal from which is to the appropriate appellate court.⁷

All cases before a county municipal court, whether jury-or bench-tried, are, if possible, to be heard on the record. If heard on the record, any appeal is to the appropriate appellate court. If for some reason the proceedings were not recorded, any person aggrieved by a judgment has a right to a trial de novo, including the county. The procedures for perfecting a request for a trial de novo are the same as those for civil cases pursuant to V.A.M.S. §§ 512.180 to 512.320, except as modified by Supreme Court Rules 37.71

through 37.74.⁸

The request must be filed within ten days of the entry of judgment. This time may not be extended, and no application for a trial de novo is allowed if the defendant has paid any part of the fine or costs.⁹ The applicant must pay the requisite docket fee unless leave to proceed in forma pauperis has been granted. The case is then transmitted to the circuit court for appropriate assignment to either a circuit or an associate circuit judge.¹⁰

Trials of all other municipal court cases are not heard on the record. Instead, the defendant, if aggrieved by the judgment, has a right to a trial de novo. But in this instance only a defendant may request a trial de novo; the municipality may not do so. The application for a trial de novo must be filed within ten days from the entry of judgment.¹¹ No extension of time may be granted. Again, the applicant must pay the requisite docket fee unless leave to proceed in forma pauperis has been granted. The case is then transmitted to the circuit court for appropriate assignment to either a circuit or an associate circuit judge.

The application for a trial de novo need not follow a specific format, and the application need not be verified. The Supreme Court has promulgated as part of its Rule 37 a sample form (Supreme Court Form 37.G). Its use, however, is not mandatory. The application is sufficient so long as it makes clear that defendant is exercising his statutory right to request a trial de novo.¹²

Following the filing of an application, the clerk of the municipal division is required to promptly transmit a certified copy of the record to the clerk of the court that has been designated to hear ordinance violations de novo. The failure to transmit the record, however, does not affect the right to trial.¹³

The filing of a request for trial de novo automatically stays enforcement of the judgment.¹⁴ If a jail sentence is a possibility, however, the judge may require the defendant to post a bond as a condition of continued release pending disposition of the trial de novo.¹⁵ The filing of the application only “suspends” enforcement. If the defendant fails to appear for the new trial, the application may be dismissed, and the stay is then automatically revoked.¹⁶

Supreme Court Rule 37.74 provides that all trials de novo must proceed in the same manner as that provided by the rules of criminal procedure for other misdemeanor trials.

Once the application has been docketed in the new court, the information previously filed in the municipal division may be amended to clarify or charge a lesser-included offense;

14

See Supreme Court Rule 37.72.

15

See Supreme Court Rule 37.15. Subsection (a) creates an entitlement in ordinance and traffic violation cases for release pending judgment and during the pendency of any trial de novo, review, or appeal. But as each court enters judgment, it must review the conditions of release and is empowered to modify those conditions in accordance with Supreme Court Rule 37.20.

16

State ex rel. Garrett v. Gagne, 531 S.W.2d 264, 267 (Mo. 1975).

17

City of Mexico v. Merline, 596 S.W.2d 475, 477 (Mo. Ct. App. E.D. 1980).

18

City of Kansas City v. Johnney, 760 S.W.2d 930 (Mo. Ct. App. W.D. 1988).

19

See Supreme Court Rule 37.72.

20

City of Neosho v. Doyle, 52 S.W.3d 651, 652 (Mo. Ct. App. S.D. 2001). Here, the Southern District dismissed defendant's appeal because the trial court's docket sheet notations entered following the completion of a trial de novo did not constitute an appealable judgment within the meaning of Supreme Court Rules 37.64(d) and 29.07(c).

24 Mo. Prac., Appellate Practice § 13.6 (2d ed.)

Attorney General Opinions

Municipal division cases

A village may hold hearings on municipal ordinance violations outside the corporate boundaries of the village and inside the corporate boundaries of a neighboring municipality, if the village and municipality enter into a cooperative agreement regarding the operation of the courtroom to be used pursuant to § 70.220 pertaining to cooperation among political subdivisions with other states, United States or private persons, if the village expresses its consent to the promulgation of a local court rule by the relevant circuit court authorizing the filing and assignment of municipal division cases outside the boundaries of the village pursuant to this section by circuit courts and if the circuit court promulgates such a rule. Op. Atty. Gen. No. 205, Woods, 9-23-83.

Mo. Ann. Stat. § 478.245 (West)

Employees

For the purposes of 105.300, et seq., providing for social security tax reporting, a municipal judge selected pursuant to 479.020, is an employee of the municipality; it would not be possible for a municipality to provide for municipal judge services on a contractual basis in a manner as to exempt the municipality from treating such person as an employee for social security reporting purposes. Op.Atty.Gen. No. 43-84, Pelzer, 6-20-84.

Mo. Ann. Stat. § 105.300 (West)

Jurisdiction

Municipal courts do not have jurisdiction to commit individuals to facilities of the department of mental health for evaluation or treatment pursuant to § 552.020 regarding lack of mental capacity as a bar to trial or conviction or this section relating to acquittal based on mental disease or defect. Op.Atty.Gen. No. 178, Hensley, 12-8-78.

Mo. Ann. Stat. § 552.040 (West)

