



Ad Hoc Committee to Study Court Costs

Report to the Supreme Court

Submitted December 16, 2013

Ad Hoc Committee to Study Court Costs

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Ad Hoc Committee to Study Court Costs

Background

The Supreme Court of Missouri issued an order on August 12, 2013, establishing the Ad Hoc Committee to Study Court Costs (Committee) and appointed the members to the Committee. *See* Appendix A. Judge Gary Witt was appointed chair of the committee. The remaining members were legislators, judges, court clerks, attorneys and other stakeholders familiar with court costs. After the Committee was established The Honorable Jon Beetem and Shara Meyers resigned from the committee due to pending litigation and Colleen Coble from the Missouri Coalition Against Domestic and Sexual Violence was added to the Committee. The full order with members is included. The committee was assisted by staff from the Office of State Courts Administrator and the Supreme Court of Missouri.

The scope of the Committee was limited to clarifying the existing state of the law regarding court costs, fees and surcharges, including, but not be limited to, a possible redrafting of relevant statutes so that court cost statutes provide a simpler, more readily understood instruction manual on what is charged in each type of case for which a unique cost structure exists.

The Committee met September 3, 2013; September 19, 2013; October 10, 2013; December 2, 2013; and December 10, 2013. The deadline for the filing of the Committee's final report was extended by the Supreme Court at the request of the Committee from November 1, 2013, to January 1, 2014.

The Committee solicited public input by electronic mail. The Committee also reviewed chapter 488, RSMo; sections 302.137, 304.027 and 304.028, RSMo; Court Operating Rule 21; and relevant case law pertaining to court costs.

Court Costs

A significant amount of money is collected and disbursed each year by the circuit courts, which includes the municipal divisions of the circuit courts. In fiscal year 2012, the courts collected and disbursed \$327,811,158 to the state, counties, cities and specified funds. A five-year summary is attached as Exhibit B.

Court costs are defined by section 488.010, RSMo, as "the total of fees, miscellaneous charges and surcharges, imposed in a particular case." Those costs consist of the following statutory fees, miscellaneous charges and surcharges: basic legal services fund surcharge (legal aid); brain injury fund surcharge; CASA surcharge; clerk fee; county fee; county law enforcement restitution fund surcharge; court automation fee; court reporter fee; crime victims compensation fund surcharge; DNA profiling analysis fund surcharge; domestic relations resolution fund surcharge; domestic violence shelter surcharge; drug testing state lab; expungement of conviction surcharge; inmate prisoner detainee security fund surcharge; law enforcement arrest costs (MSHP); law enforcement training surcharge; law library surcharge; family court surcharge; guardian ad litem fees; independent living center fund surcharge; MODEX fund; motorcycle safety trust fund surcharge; peace officer standards and training fund surcharge; prosecuting attorney retirement fund surcharge; prosecuting attorney training fund surcharge; public defender judgments; sheriffs' fee; sheriffs' retirement fund surcharge; sheriffs' deputy salary; supplementation surcharge; spinal cord injury fund surcharge; and treatment court fee.

Court costs differ by case type and there is inconsistent language used throughout the statutes on how and on which cases they are to be assessed. Some costs are assessed on all cases while others are just assessed on civil or criminal or on a subgroup of civil or criminal. This inconsistency causes confusion among court staff, attorneys and the public about which is the appropriate cost to assess on a particular case.

Current Issues Related to Court Costs

Sheriff's Retirement Fund

In recent years there has been some question regarding the Sheriff's retirement fund surcharge, section 57.955, RSMo, regarding which types of cases it should be assessed upon. The Attorney General issued an opinion on April 17, 2013, stating that the \$3 surcharge should be assessed on municipal ordinance cases because the specific exemption for municipal courts was removed by the legislature in 1996. This opinion was contrary to the practice of the municipal divisions during the thirty years since the enactment of the statute. Historically, the sheriff's retirement surcharge had been assessed on civil cases filed within the circuit court but not municipal ordinance violations. As a result of the 2013 Attorney General opinion, the Office of State Courts Administrator sent notice to the municipal divisions informing them of the opinion and that the surcharge should now be collected on municipal ordinance violations irrespective of where the case was filed. Numerous municipal divisions issued *sua sponte* orders staying the collection of the surcharge. In addition, a lawsuit is currently pending in Cole County regarding the constitutionality of the surcharge as applied to the municipal divisions.

Subsequently, additional entities that receive funds generated from court costs have requested opinions regarding whether a specific fee should also be assessed upon cases filed in the municipal courts. One basis of the confusion in this area has arisen due to many municipal ordinance violations traditionally considered as criminal in nature, such as traffic offenses, but are legally considered civil or quasi-criminal.

Harrison v. Monroe County

The sheriff's retirement surcharge is not the first controversy regarding the constitutionality of court costs. The issue in *Harrison v. Monroe County*, 716 S.W.2d 263 (Mo. banc 1986), was whether Senate Bill 601 (82nd General Assembly, 2nd Regular Session) (effective August 13, 1984) (Laws of Missouri, 1984, pp. 342-349)

(hereafter SB 601), was unconstitutional. SB601 provided for a \$4 court cost to be assessed on civil and criminal proceedings to be used for additional compensation for county elected officials including state prosecutors, county clerks, county collectors, county assessors, county treasurers, county auditors, county sheriffs, county recorders of deeds, public administrators in certain classes of counties and county commissioners.

Taxpayer Poole Harrison (hereafter Harrison) filed suit in Monroe County alleging that SB 601 violates [Mo. Const. art. I, § 14](#) and [art. X, § 21](#). The trial court dismissed appellant's petition with prejudice and the taxpayer Plaintiff appealed. On appeal, Harrison argued the court cost was the sale of justice under art. I, § 14 of the Missouri Constitution.

The Supreme Court of Missouri agreed and held that:

The proper test is whether the court costs required are reasonably related to the expense of the administration of justice. Examined under this test, S.B. 601 civil court costs bear no reasonable relationship to the expenses of the administration of justice; S.B. 601 civil court costs are collected to enhance the compensation of officials of the executive department of county government. We, therefore, hold that the fees imposed in civil cases by S.B. 601 are unreasonable impediments to access to justice in violation of art. I, § 14.

In a separate concurring opinion, Judge Welliver, concurred that the court cost constituted the sale of justice and expressed his concern over additional court costs that were then being assessed and the rising amount of court costs.

State v. D. S

In *State v. D. S.*, 606 S.W.2d 653 (Mo. banc 1980), the issue presented to the Court was whether section 211.161, RSMo (1978) allowed expenses incurred in the psychiatric examination of juveniles to be taxed as costs to the counties that ordered the examinations. Section 211.161 reads, in pertinent part, as follows:

1. The court may cause any child within its jurisdiction to be examined by a physician, psychiatrist or psychologist appointed by the court in order that the condition of the child may be given consideration in the disposition of

his case. The expenses of the examination when approved by the court shall be paid by the county.

The general rule regarding costs was set forth in *Cramer v. Smith*, 350 Mo. 736, 168 S.W.2d 1039, 1040 (banc 1943):

At common law costs as such in a criminal case were unknown. As a consequence it is the rule as well in criminal as in civil cases that the recovery and allowance of costs rests entirely on statutory provisions-that no right to or liability for costs exists in the absence of statutory authorization. Such statutes are penal in their nature, and are to be strictly construed. 20 C.J.S. Costs s 435, p. 677.

Likewise, in *McClue v. Epstein*, 492 S.W.2d 97, 98 (Mo. App. 1973) the court said, “The legal principle controlling here is that no item is taxable as costs unless specifically so provided by statute.” The Court held that without statutory authorization, the expenses of the psychiatric examinations of juveniles could not be taxed as costs to the county and section 211.161 did not permit the fees to be taxed as costs.”

Cramer v. Smith

One of the first cases to discuss court costs was *Cramer v. Smith*, 350 Mo. 736, 168 S.W.2d 1039 (Mo. banc 1943). An indigent defendant was convicted of a capital offense and appealed. The court reporter, as ordered under Mo. Rev. Stat. § 13344, furnished the defendant a transcript of the testimony for the purposes of his appeal. The conviction was reversed and a new trial was ordered. The costs of the transcript were taxed against the State. However, the auditor refused to approve the fee bill on the ground that the criminal case had not been determined within the meaning of Mo. Rev. Stat. § 4236. The reporter filed a declaratory judgment action for determination of his rights with respect to the taxing and payment of an item of criminal costs. The trial court ruled in the reporter’s favor holding that the State was liable for the transcript fee and that it became the duty of the auditor, upon presentation of the fee bill, to forthwith draw a warrant for the payment of the same. The State Auditor appealed.

Sections 4221 and 4222 impose liability for costs (except those incurred on the part of defendant) on the state or county, respectively, on conviction of an indigent defendant depending upon where the defendant is incarcerated – the state penitentiary or the county jail. Where the defendant is acquitted, liability for costs is imposed under a formula prescribed by Section 4223.

The Court held that Section 13344 casting liability for the transcript on the state or county, as may be proper, cannot be reconciled with Sections 4221 and 4222, both of which expressly provide that neither the state nor county shall pay such costs “as were incurred on the part of the defendant.” Section 13344, being the later enacted statute, must be held to have been repealed to the extent noted, by necessary implication by the contrary provisions of Sections 4221 and 4222.

And, the defendant has not yet been convicted so as to make either the state or county liable for the costs under sections 4221 and 4222, nor acquitted so as to make section 4223 apply. Reversed and remanded.

Tumey v. State of Ohio

In *Tumey v. State of Ohio*, 273 U.S. 510, 47 S. Ct. 437, 71 L. Ed. 749 (1927) the United States Supreme Court had to consider whether certain statutes of Ohio, in providing for the trial by the mayor of a village of one accused of violating the Prohibition Act of the state (Gen. Code, Ohio, s 6212-13 et seq.), deprive the accused of due process of law and violate the Fourteenth Amendment to the Federal Constitution, because of the pecuniary and other interest which those statutes give the mayor in the result of the trial.

A statutory scheme in Ohio prohibited the manufacture or possession of any intoxicating liquors. Fines for violation ranged from \$100 to \$1000, and the remainder of the statutory scheme allowed for mayors to conduct the trial for such violations and for one-half of the fines collected to be placed in the treasury of the township, municipality

or county where the prosecution was held to be used in various ways to secure enforcement of the prohibition law.

Based upon the authority of the statutes, the village of North College Hill passed an ordinance that directed percentages of the fines collected to be paid to the treasury of the village, deputy marshals, the local prosecutor, detectives and secret service officers. Additionally, the mayor would receive the amount of his costs in each case in addition to his regular compensation.

The Court held that to subject a defendant to trial in a criminal case involving his liberty or property before a judge having a direct, personal and substantial interest in convicting him is a denial of due process of law. It is also a violation of the Fourteenth Amendment for the state to vest judicial power in an individual who has interests, both as an individual and as chief executive of the village, in the outcome of the trial of a defendant.

Summary of Public Testimony

The Committee requested written comments from the public regarding court costs. The committee received four comments. Three of the comments addressed the collection of the sheriff's retirement surcharge by the municipal courts. The fourth comment indicated that court costs should be the same in every county in the state.

The news release and complete written testimony are attached as Exhibit C.

Recommendations of the Committee

Due to the limited scope of the mission of the Committee and the limited time to complete the report, the Committee does not make any recommendations relating to the amount of any fees and surcharges or the types of cases upon which they should be assessed. It is not the intent of the Committee to propose alterations to current fees or

surcharges or address the constitutionality of any individual cost assessed.

Determinations related to those points are policy matters to be considered and decided by the General Assembly. It is the goal of the Committee to provide a statutory model designed to clearly demonstrate what fees and surcharges should be assessed on different case types filed in Missouri courts. Using this model, relevant statutes can be amended so they are clearly understood by clerks, judges, lawyers, litigants and other stakeholders. In formulating a statutory model, it was the Committee's general approach to limit the use of undefined generic terms such as civil and criminal and to define the specific case types that are heard in the courts and to use those definitions in each section that establishes a cost, fee or surcharge. The Committee would recommend that the General Assembly employ this model as a template to amend identified statutes related to court costs and surcharges in a clear and consistent manner. The Committee draft of the proposed statutory model language is attached as Exhibit D. Certain policy decisions regarding the types of cases upon which court costs may be assessed, which may be made by the General Assembly may require some modification of the definitions contained in the model language prepared by the Committee. The Committee has also included in Exhibit D a complete list of statutes where clarification by the General Assembly would be advisable. The Committee recommends that those statutes addressing court costs, which are not currently located in Chapter 488, be moved to Chapter 488.

Conclusion

The language of several current statutes relating to costs and surcharges leaves them ambiguous or open to variable interpretations, resulting in past confusion, current litigation and a proliferation of requests for opinions from the Attorney General. It is the hope of the Committee that the General Assembly will be able to use the recommended model language to amend these statutes in such a manner that the assessment of court costs and surcharges can be applied in a uniform manner throughout the state, without confusion, and that future, costly litigation may be avoided. The proposed model

language is drafted to clarify the existing practice regarding the types of cases upon which each cost is currently being collected. Should the legislature determine it is necessary or advisable to expand or contract the types of cases upon which an existing or new cost should be collected, the Committee urges the use of the definitions and the format contained within the draft attached.

Appendix A



SUPREME COURT OF MISSOURI

en banc

August 12, 2013

In re: Ad Hoc Committee to Study Court Costs

ORDER

There is hereby established an ad hoc committee to study court costs currently assessed under Missouri statutes. The committee shall seek to clarify the existing state of the law regarding court costs, fees, and surcharges. This clarification shall include, but not be limited to, a possible redrafting of relevant statutes so that court cost statutes provide a simpler, more readily understood instruction manual on what is charged in each type of case for which a unique cost structure exists. The committee shall solicit suggestions from judges, lawyers, and other interested parties on any appropriate changes in the relevant statutes, rules of court, or practices of court clerks, clients, and lawyers.

The committee shall be composed of the following:

The Honorable Gary Witt, Missouri Court of Appeals, Western District;
The Honorable Jon Beetem, Judge, 19th Judicial Circuit;
The Honorable Kelly Laree Lovekamp, Judge, 1st Judicial Circuit;
The Honorable Shara Meyer, Columbia Municipal Court Administrator;
Cathleen Abell, Deputy Clerk, JacksonCounty;

Jason Lamb, Missouri Office of Prosecutor Services;
Sheldon Lineback, Missouri Police Chiefs' Association;
Mick Covington, Missouri Sheriff's Association;
The Honorable Cotton Walker, Municipal Judge, Jefferson City, MO;
Zack Bickel, Robertson Law Group, Kansas City, MO;
The Honorable Stephanie Elkins, Circuit Clerk, Johnson County;
The Honorable Bob Dixon, State Senator, 30th District;
The Honorable Jolie Justus, State Senator, 10th District;
The Honorable Chris Kelly; State Representative, 45th District;
The Honorable Kevin Elmer, State Representative, 139th District.

Judge Witt is appointed chair of the committee.

The committee shall file an interim report to this Court on or before November 1, 2013.

The committee shall meet at such times and places as determined by the chair, and members will be reimbursed actual expenses as authorized for state employees.

Day – to – Day

MARY R. RUSSELL
Chief Justice

Appendix B

CIRCUIT COURT DISBURSEMENTS: Disbursed to State Entities, by Fiscal Year					
	2008	2009	2,010	2011	2012
Clerk Fee	\$ 8,786,235	\$ 11,996,890	\$ 11,824,125	\$ 11,587,063	\$ 11,442,558
Court Automation	\$ 3,339,658	\$ 4,862,137	\$ 4,732,846	\$ 4,590,431	\$ 4,578,973
Basic Civil Legal Servs	\$ 2,685,843	\$ 3,465,098	\$ 3,359,708	\$ 3,267,783	\$ 3,144,138
Crime Victims Comp Fund	\$ 2,881,272	\$ 3,977,016	\$ 4,055,631	\$ 3,889,593	\$ 3,943,630
Court Reporter	\$ 1,157,092	\$ 1,382,466	\$ 1,413,316	\$ 1,384,522	\$ 1,376,945
DNA Profiling Analysis Fund	\$ 1,269,937	\$ 1,449,580	\$ 1,383,455	\$ 1,315,907	\$ 1,270,164
Crim Costs State Reimb.	N/A	\$ 835,169	\$ 835,250	\$ 815,138	\$ 831,380
Law Enf Arrest-MSP	\$ 386,346	\$ 482,585	\$ 491,615	\$ 452,527	\$ 492,578
Public Def Judgment	\$ 487,343	\$ 471,449	\$ 434,314	\$ 415,524	\$ 369,676
Spinal Cord Injury	\$ 377,630	\$ 630,156	\$ 614,402	\$ 595,718	\$ 609,371
Head Injury surcharge	\$ 376,253	\$ 629,349	\$ 614,642	\$ 596,566	\$ 609,279
Drug Testing-State Lab	\$ 265,358	\$ 360,984	\$ 346,013	\$ 345,135	\$ 323,508
Dom Rel Resol Fund	\$ 183,351	\$ 223,742	\$ 231,657	\$ 230,179	\$ 227,673
Peace Officer Stds Train Fund	\$ 201,067	\$ 328,552	\$ 320,844	\$ 309,990	\$ 318,763
Independent Living	\$ 188,398	\$ 315,756	\$ 307,572	\$ 298,654	\$ 304,909
Motorcyc Safety Trust Fund	\$ 188,144	\$ 314,745	\$ 307,173	\$ 296,762	\$ 304,695
Putative Father Reg Fee	N/A	\$ 117,065	\$ 126,046	\$ 112,799	\$ 122,561
Pros Attorney Training	\$ 94,787	\$ 157,963	\$ 154,122	\$ 150,810	\$ 152,788
CASA Surcharge	\$ 67,357	\$ 79,018	\$ 83,734	\$ 83,287	\$ 83,104
Other (1)	\$ 2,962,330	\$ 243,243	\$ 297,614	\$ 954,510	\$ 263,057
TOTAL	\$ 25,898,400	\$ 32,322,964	\$ 31,934,077	\$ 31,692,898	\$ 30,769,750
CIRCUIT COURT DISBURSEMENTS: Disbursed to County Entities, by Fiscal Year					
	2008	2009	2,010	2011	2012
Fine	\$ 16,883,007	\$ 26,503,942	\$ 25,273,485	\$ 24,563,017	\$ 25,526,492
Sheriff Fee	\$ 4,855,236	\$ 8,344,482	\$ 8,319,776	\$ 7,957,346	\$ 7,845,195
Board Bill	\$ 4,387,454	\$ 4,406,820	\$ 4,482,205	\$ 4,315,016	\$ 4,536,824
County Fee	\$ 3,559,404	\$ 4,946,823	\$ 4,794,578	\$ 4,619,552	\$ 4,636,069
Clerk County	\$ 2,137,716	\$ 2,918,866	\$ 2,873,249	\$ 2,809,979	\$ 2,781,920
Sheriff Deputy Salary Supp	N/A	\$ 1,655,253	\$ 2,224,462	\$ 2,177,847	\$ 2,164,255
County Law Enf Restitution	\$ 1,066,783	\$ 1,126,299	\$ 1,231,406	\$ 1,428,937	\$ 1,718,533
Misc County Fees	\$ 857,935	\$ 1,075,378	\$ 1,243,829	\$ 1,369,338	\$ 1,444,026
Family Court	\$ 758,283	\$ 975,968	\$ 1,073,172	\$ 1,036,210	\$ 990,919
Bonds Forfeited	\$ 612,709	\$ 771,677	\$ 660,323	\$ 655,629	\$ 715,052
Law Enforcement Training	\$ 372,088	\$ 624,619	\$ 609,578	\$ 591,023	\$ 605,868
Domestic Violence Surcharge	\$ 313,755	\$ 443,060	\$ 477,697	\$ 481,722	\$ 485,825
Prosecuting Attorney Training-County	N/A	\$ 157,869	\$ 154,212	\$ 149,276	\$ 152,711
Other (2)	\$ 1,585,842	\$ 2,197,089	\$ 1,356,812	\$ 1,507,187	\$ 1,392,045
TOTAL	\$ 37,390,211	\$ 56,148,145	\$ 54,774,784	\$ 53,662,078	\$ 54,995,735

CIRCUIT COURT DISBURSEMENTS: Disbursed to Municipal Entities, by Fiscal Year					
	2008	2009	2,010	2011	2012
Fine-Municipal	\$ 1,209,496	\$ 2,186,455	\$ 1,529,638	\$ 1,495,640	\$ 1,704,405
Clerk Fee -Municipal	\$ 9,067	\$ 29,950	\$ 33,701	\$ 38,753	\$ 43,456
Domestic Violence-Municipal	\$ 6,570	\$ 6,641	\$ 5,828	\$ 2,351	\$ 3,172
Other (3)	\$ 1,396,787	\$ 1,453,447	\$ 1,349,235	\$ 1,327,861	\$ 1,461,875
TOTAL	\$ 2,621,920	\$ 3,676,492	\$ 2,918,401	\$ 2,864,605	\$ 3,212,907
CIRCUIT COURT DISBURSEMENTS: Disbursed to Other Entities, by Fiscal Year					
	2008	2009	2,010	2011	2012
Sheriffs Retirement	N/A	\$ 1,707,648	\$ 1,661,313	\$ 1,605,553	\$ 1,591,645
Pros Atty Retirement Fund Total	N/A	\$ 797,069	\$ 762,138	\$ 699,774	\$ 675,076
Law Library	\$ 3,145,967	\$ 4,405,314	\$ 4,254,527	\$ 4,214,099	\$ 4,058,437
Treatment Court Fee	\$ 5,978	\$ 471,951	\$ 94,094	\$ 853,211	\$ 996,359
Restitution	\$ 477,614	\$ 3,811,745	\$ 4,059,538	\$ 3,398,841	\$ 3,210,117
Guardian Ad Litem	\$ 336,530	\$ 1,343,243	\$ 1,309,160	\$ 1,278,412	\$ 1,572,884
Publication	N/A	\$ 332,456	\$ 315,568	\$ 302,580	\$ 387,692
Garnishments	\$ 51,962,951	\$ 79,650,913	\$ 103,189,006	\$ 111,647,150	\$ 112,431,052
Judgment Paid to Court	\$ 5,245,287	\$ 32,454,313	\$ 36,605,611	\$ 34,414,956	\$ 23,300,153
Bonds Refunded	\$ 27,875,607	\$ 29,557,486	\$ 26,470,893	\$ 26,901,827	\$ 26,316,023
Other (4)	\$ 64,137,652	\$ 49,659,862	\$ 41,592,852	\$ 30,207,440	\$ 64,293,326
TOTAL	\$153,187,586	\$ 204,192,000	\$ 220,314,700	\$ 215,523,843	\$ 238,832,765
Bond Refunds	N/A	N/A	\$ 26,470,893	\$ 26,901,827	\$ 26,316,023
Refunds Included in (Other 4) Total	N/A	N/A	\$ 30,902,490	\$ 19,085,047	\$ 52,184,669
Total Refunds/Exclusions	N/A	N/A	\$ 57,373,383	\$ 45,986,874	\$ 78,500,692
Disbmt to Other Recipients Less Exclusions	N/A	N/A	\$ 162,941,317	\$ 169,536,968	\$ 160,332,073
MUNICIPAL DIVISION DISBURSEMENTS, by Fiscal Year ^					
	2008	2009	2,010	2011	2012
Fines	\$ 85,836,640	\$ 83,800,779	\$ 89,449,751	\$ 104,806,545	\$ 108,360,347
Clerk/Court Fee (costs)	\$ 12,112,147	\$ 10,951,074	\$ 12,125,314	\$ 12,980,802	\$ 13,008,734
POST Fund Surcharge	\$ 939,634	\$ 960,872	\$ 1,005,134	\$ 1,079,224	\$ 1,018,127
CVC Fund Surcharge	\$ 6,258,888	\$ 5,893,218	\$ 6,030,059	\$ 7,109,887	\$ 7,003,373
LET Fund Surcharge	\$ 1,525,033	\$ 1,562,966	\$ 1,547,985	\$ 1,857,632	\$ 1,776,637
Dom Violence Shelter Surcharge	\$ 1,120,468	\$ 1,105,906	\$ 1,169,956	\$ 1,487,289	\$ 1,399,897
Inmate Security Fund Surcharge	\$ 428,480	\$ 496,834	\$ 674,441	\$ 836,584	\$ 924,013
Restitution	\$ 547,503	\$ 571,189	\$ 593,152	\$ 770,305	\$ 652,124
Other	\$ 6,899,241	\$ 7,600,104	\$ 8,456,501	\$ 8,646,964	\$ 9,261,303
Revenue Recd for Parking Tickets	\$ 1,582,034	\$ 1,600,655	\$ 1,602,313	\$ 3,271,288	\$ 2,116,804
TOTAL excludes b/f not used for costs/fines	\$117,250,069	\$ 114,543,597	\$ 122,654,605	\$ 142,846,518	\$ 145,521,359
Total bond forfeitures NOT used for costs/fines	N/A	\$ 3,501,948	\$ 4,803,868	\$ 3,584,463	\$ 3,590,914
Total ret'd for Judicial Education Fund (JEF)	\$ 118,830	\$ 123,517	\$ 404,932	\$ 358,416	\$ 380,066

^ Data in this table are a combination of collections and disbursments, as municipal division courts (may) report either value.

Appendix C

SUPREME COURT OF MISSOURI COMMITTEE SEEKS COMMENTS ABOUT COURT COSTS

JEFFERSON CITY, Mo. – In an effort to clarify the existing state of the law regarding court costs, fees and surcharges, the Supreme Court of Missouri has established an ad hoc committee to study costs. In addition to the study, the committee’s work may include a possible suggestion for redrafting relevant statutes so that court cost statutes provide a simpler, more readily understood instruction manual about what is charged in each type of case for which a unique cost structure exists.

As part of its study, the committee has announced that it will take written comments until 5 p.m. Friday, Oct. 11, 2013. Comments should be sent by e-mail to CourtCostsComments@courts.mo.gov or by postal mail to the committee in care of the Office of State Courts Administrator, 2112 Industrial Drive, P.O. Box 104480, Jefferson City, MO 65110.

For additional information, please contact Catherine Zacharias, legal counsel at the Office of State Courts Administrator, at (573) 751-4377.

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Public Testimony

Comment 1:

I feel that to be fair to the public, all filing fee charges, service expenses, copying expenses, guardian ad litem fees, or any other expense charges to a litigant should be the same in every county of Missouri.

Pat Brownlee
W. Morris Taylor, P.C.
9666 Olive, Ste. 202
St. Louis, MO 63132
314/725-7000
314/725-7273 fax
pbrownlee@wmorristaylorlaw.com

Comment 2:

How is it ethical, reasonable or even 'legal' to assess costs for a sheriff's retirement fund against municipal court defendants who were not ticketed or arrested by any sheriff department? What's next - highway patrol retirement fund? Smacks of a good ole boys club to me.

Janet Elise Oliver
Attorney at Law
4550 Belleview Avenue
Kansas City, MO 64111
816-756-5800 ext. 6037
816-756-1999 Fax

Comment 3:

Certain fees added to court costs, such as fees collected for the sheriff's department, or other law enforcement agency, amount to no more than a tax that was not authorized by the legislature. As such, they should be banned until and unless authorized by the legislature.

Thank you,
Tom Crocco
District Defender
240 W. College St.
Troy, MO 63379
(636) 528-5084

Comment 4:

Committee Members:

The Eastern Jackson County Bar Association advised me that the Supreme Court of Missouri has established an ad hoc committee to study court costs and requested that input be sent to this email address. I have been the City Attorney for the City of Blue Springs for 27 years and the Municipal Judge for the City of Lake Tapawingo for 39 years. As such, I have been closely entwined in the issue of court costs as they relate to municipal courts. Fortunately, most state statutes that address court costs specifically address their applicability to municipal courts. Unfortunately, that is not always true and, although the Supreme Court is authorized by Section 479.080, RSMo to provide by administrative rule for a “uniform procedure, and reporting forms for the collection and transmittal of fines and costs,” it has not always provided that guidance.

As I am sure you are now aware, the issue of whether or not a municipal court is required to collect and remit an additional surcharge of \$3 for the Sheriffs’ Retirement Fund pursuant to Section 57.955 RSMo has become a hot topic. For years, the Office of State Courts Administrator had advised that the municipal courts did not need to collect this surcharge. In fact, it had written, after the Attorney General’s second opinion, that the surcharge should not be collected by municipal courts and that it did “not intend to change its guidance to courts regarding the assessment of the Sheriffs’ Retirement Fund surcharge until either the underlying statute or case law in question has been modified.” However, although there had been no new case law or a change in the statute, OSCA made a 180 degree reversal supposedly based on the Attorney General’s third opinion on the issue. OSCA is an arm of the Supreme Court. The attached Order of the City of Lake Tapawingo Municipal Division explains why I, as Judge, believe the Attorney General’s last opinion, in addition to the first two, are legally incorrect, and the 1996 amendment to the statute actually made it clear that municipal courts were excluded. It also explains why an interpretation that the statute applies to municipal courts violates the Missouri Constitution, an issue that the Attorney General admittedly did not address.

I am aware that there is currently litigation in Jefferson City that seeks to have the issue determined by a court of law. The City of Blue Springs' Assistant City Administrator with supervision over the functions of the Municipal Court is one of the plaintiffs seeking declaratory relief. It would be so much easier if the legislature made clear their intentions as to which courts court cost legislation applies since, absent a constitutional issue, it is their will that should control. Of course, that may be easier said than done. So, good luck, and thank you for your attempt to resolve the issues surrounding court costs.

If you are going to consider the Sheriffs' Surcharge, I hope that you will read the attached Order. In my opinion the legislature made it clear that the Sheriffs' Surcharge for their retirement fund did not apply to municipal courts.

Thank you for your attention.

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**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
SIXTEENTH JUDICIAL CIRCUIT
MUNICIPAL DIVISION-CITY OF LAKE TAPAWINGO**

**SUA SPONTE ORDER REGARDING SURCHARGE
FOR SHERIFFS' RETIREMENT FUND**

Effective Date-August 8,2013

Background

In July of 2013, the Lake Tapawingo Municipal Court received a directive from the Office of State Courts Administrator ("OSCA") to begin assessment on August 28, 2013, in every case disposed of by a plea of guilty or a finding of guilty, an additional surcharge of three dollars for the "Sheriffs' Retirement Fund."

The authority cited for OSCA's directive arises from Opinion 20-2013, dated April 17, 2013, written by Chris Koster, Attorney General of the State of Missouri (hereinafter Opinion 20-2013)¹

Mr. Koster's Opinion interprets Section 57.955 RSMo (relating to the retirement fund of county sheriffs), which statute has been in effect in its present wording since 1996. In Section 1 of that statute, it is written "[t]here shall be assessed and collected a surcharge of three dollars in all civil actions filed in the courts of this state." Section 57.955.1 RSMo. (Emphasis Added)(Section 57.955 RSMo. attached as Exhibit A)

Opinion 20-2013, as did both versions of Opinion 8-2010, concludes that Section 57.955 RSMo is authority for the requirement of an assessment of a three dollar surcharge, not only in the circuit divisions, but also in the municipal divisions, for the Sheriffs' Retirement Fund, since, according to the Attorney General, Missouri municipal court cases are considered by law civil proceedings.

The Attorney General noted that an earlier version of the subject statute specifically excepted assessment of the surcharge in the municipal divisions, but that in 1996, that exception was eliminated by legislation. The Attorney General then opined that since the above-referenced statute change removed the exception of the municipal divisions from the surcharge, the amendment to the statute must have some meaning. Therefore, the Attorney General wrote, municipal court clerks "must collect the surcharge in municipal ordinance violation cases."

This Court has been advised that the Clerk of the Missouri Supreme Court is in agreement with the opinion of the Attorney General expressed in Opinion 20-2013, and, as a result, directed that OSCA notify the municipal divisions that the Sheriffs' Retirement Fund surcharge is to be assessed in all municipal court judgments.² But, this Court is unaware of any Supreme Court Rule specifically addressing the issue of collection of the surcharge. And, as pointed out below, municipal courts, although divisions of the circuit court, do not have "civil actions" filed in them or have the authority to hear "civil actions."

¹ Attorney General's Opinion 20-2013 is available at: http://ago.mo.gov/opinions/2013/020_2013.pdf.

² It is noted that no such action was taken after either the Attorney General's 2010 or 2011 version of Opinion 8-2010, and in fact OSCA expressed the opinion that the surcharge should not be collected after each version and also indicated in correspondence after the second version that "the Office of State Courts Administrator does not intend to change its guidance to courts regarding assessment of the sheriffs retirement fund surcharge until either the underlying statute or case law in question has been modified." The letter from the Administrator went on to state: "Therefore, we do not believe it would be proper to provide courts guidance advising them to assess this surcharge in municipal cases." There has been no change to the statute since 1996. There is no new case law either. And, OSCA has not explained its 180° reversal.

Discussion

Although the Attorney General spent much time discussing whether municipal ordinance violations were civil or criminal in his first two shots at interpreting Section 57.955 (AG Opinion 8-2010 dated June 23, 2010 & AG Opinion 8-2010 dated March 21, 2011), or maybe even quasi-criminal (Opinion 20-2013 is the third attempt), the Attorney General failed to address the real issue of what is a "civil action" that is "filed" in courts of this state. It is the "civil actions" that require collection of the surcharge. Supreme Court Rule 42.01 states: "There shall be one form of action to be known as "civil action." (See also, Section 506.040 RSMo.) Rule 42.01 is in the Rules of Civil Procedure that include Supreme Court Rules 41 through 101. Rule 41.01(a) says that they "shall govern" "civil actions" pending in the Supreme Court, the Court of Appeals, and the Circuit Court cases pending before a Circuit or Associate Circuit Judge. Some of these Rules also apply to Probate Judges. They don't apply to municipal ordinance violations.

Supreme Court Rule 37 "governs the procedure in all courts of this state having original jurisdiction of ordinance violations and the disposition of any such violation in a violation bureau." A "municipal division" is defined in Rule 37.06(i) as "any division of the circuit court presided over by a judge having original jurisdiction to hear and determine municipal ordinance violations." Rule 37.03 states: "Rule 37 shall be construed to secure the just, speedy and inexpensive determination of ordinance violations." Nowhere does Rule 37 state or indicate in any way that municipal courts have the authority to hear or adjudicate a "civil action." "Civil actions" are not filed in municipal courts. Municipal courts do not have jurisdiction over "civil actions."

The point being that Section 57.955, by its very terms does not apply to municipal divisions because they do not hear "civil actions." It is also important to note that before the 1996 amendment, the three dollars of costs applied to "each civil suit, action and all other proceedings of a civil nature filed in a circuit court or division thereof ..." Removal of "all other proceedings of a civil nature" and the municipal division exception along with the insertion of only "civil action" effectively made it clear that municipal ordinance violations were not subject to the three dollar surcharge, especially in light of the city of St. Louis exception to the newly inserted language specifically including county ordinances.

The Attorney General, in addition to failing to point the changes regarding the application to "civil actions," failed to point out that the 1996 amendment added the phrase "including violation of any county ordinance or any violation of criminal or traffic laws of this state, including infractions" such that the opening sentence of Section 57.955 reads,

"There shall be assessed and collected a surcharge of three dollar in all civil actions filed in the courts of this state and in all criminal cases including violation of any county ordinance or any violation of criminal or traffic laws of this state, including infractions, . . ."

The Attorney General was remiss in not discussing the particularly applicable rule of *expressio unius est exclusio alterius*: the express mention of one thing implies the exclusion of another. The rule would say that by specifically including "violations of county ordinances," the legislature intended to not include the violation of municipal ordinances. In addition, by including "any violation of criminal or traffic laws of this state, including infractions," the same rule of *expressio unius est exclusio alterius*: the express mention of one thing implies the exclusion of another would exclude any violation of criminal or traffic laws of a municipality. It only applies to "criminal or traffic laws of this state, including infractions." (Emphasis Added) For a very good discussion of this concept see *City of Columbia v. Henderson*, 399 S.W.3d 493, 496 (Mo. App, W. D. 2013). This interpretation is bolstered by the 1996 amendment's addition of the sentence, "For purposes of this section, the term "county ordinance" shall not include any ordinance of the city of St. Louis." The legislature made sure that there was no

question that the city of St. Louis was also excluded, as were all other cities, from collecting the surcharge because of its unique situation as a city not within a county. The Attorney General's Opinion that "in interpreting statutes, courts 'presume that the legislature intended an amendment to have some effect'" also leads one to the conclusion that cities in general are not required to collect the surcharge, otherwise why would the legislature have added the phrase specifically excluding the city of St. Louis' ordinances from the from the definition of a "county ordinance?" It was to make sure all cities were excluded.

It should also be noted that Attorney General Opinion 54-84, which did not then have the specific "municipal" division exception that was included later and removed in 1996 determined that "Section 57.955.1, RSMo Supp. 1983, does not impose court costs in cases filed in the municipal divisions of the circuit courts." A review of the Opinion shows that historically the legislature did not intend to have municipalities collect the surcharge.

The Attorney General has already determined that municipal ordinance violations are not criminal cases, so his analysis would not require collection of the surcharge based on any theory that the municipal ordinance violations were criminal in nature. His argument has always been based on either the civil nature of a municipal violation or the removal of "except municipal . . . divisions" language. As can be seen, neither theory analyzed correctly all of the changes made in the 1996 amendment of the Section.

An Attorney General's opinion can be entitled to no more weight than "that given the opinion of any other competent attorney." *Gershman Investment Corporation v. Danforth*, 517 S.W.2d, 33, 36 (Mo. banc 1974).

The Attorney General is charged by Missouri law (Section 27.060 RSMo) to defend the statutes of the State of Missouri, including Section 57.955 RSMo. The Attorney General has no authority to declare a statute unconstitutional. *Gershman*, 517 S.W.2d at 35.

Opinion 20-2013 contains a footnote, which reads as follows: "We do not address the constitutionality of collecting this surcharge at all." Opinion 20-2013 (citing *Harrison v. Monroe County*, 716 S.W.2d 263, (Mo.banc 1986) (Welliver, J., concurring)).

So, we have an Attorney General's opinion that fails to take into account whether or not the statute being evaluated is constitutional if applied to municipal divisions of the circuit court. *Harrison* has never been overruled and it is therefore still the law in Missouri. That case concerned a new Senate bill which imposed an additional surcharge in civil cases. The bill provided for additional compensation for certain county officials through the surcharge, which was added to court costs. The Court ruled that this additional compensation constituted a "sale of justice" in violation of Article I, §14 of the Missouri Constitution. See *Harrison v. Monroe County*, 716 S.W.2d 263 (Mo. banc. 1986) (Welliver, J., concurring).

The *Harrison* Court stated that the "constitutional proscription against the sale of justice extends to guarantee access to the courts without a requirement of payment of unreasonable charges." *Id.* at 267. The Court then opined that the "proper test is whether the court costs required are reasonably related to the expense of the administration of justice." *Id.* at 267.

It is this test that the Lake Tapawingo Municipal Court must consider.

In *Harrison*, the Court found that the subject required court costs "bear no reasonable relationship to the expenses of the administration of justice", and instead, the costs in the Senate bill under review in that case "are collected to enhance the compensation of officials of the executive

department of the county government." *Id.* The Court then ruled that these surcharges were "unreasonable impediments to access to justice in violation of Art. I, §14." *Id.*

In his concurring opinion in *Harrison*, Judge Welliver wrote that "retirement funds of public officials" are one of those "public uses" which "clearly should not have to rely upon the generation of funds through a user tax placed on persons seeking their constitutional right of access to the courts." *Id.* at 270.

This Court is required to follow the Rules contained in the Canons of the Code of Judicial Conduct, including the following:

Rule 2-1.1, states: "A judge shall comply with the law, including the Code of Judicial Conduct."

Rule 2-2.2, states: "A judge shall uphold and apply the law...."

Rule 2.03 defines the word "Law": "Law encompasses court rules as well as ordinances, administrative regulations, statutes, constitutional provisions and decisional law."

In addition to the above-referenced constitutional provision, this Court may consider decisional law, including decisions regarding assessment of court costs. The assessment of court costs rests entirely on statutory provisions. Such statutes are penal in their nature, and therefore must be strictly construed. *See Cramer v. Smith*, 168 S.W.2d 1039 (Mo. 1943). This Court may then consider this new surcharge under the strict construction standard.³

In addition to the constitutional, case law and ethical requirements set forth in the Canons, this Court also finds quite persuasive the principles set forth in the 2011-2012 Policy Paper of the Conference of State Court Administrators ("COSCA"). That paper sets out a very compelling Principle 3 which states, "Surcharges should only be used to fund justice system purposes; and care must be exercised to ensure the cumulative cost of litigation does not impede access to justice and that the fee and cost structure does not become too complex." Amplifying on that principle, the COSCA position paper quotes the Brennan Center for Justice work entitled "Criminal Justice Debt: A Barrier to Re-entry" as follows: "Sometimes deployed as an eleventh hour maneuver to close a state budget gap, the decision to raise or create new user fees is rarely made with much deliberation or thought about the consequences."

Whether or to what extent the Attorney General opinion at issue (and the OSCA directive following it), suffer from such deficiencies is not for this Court to say. Rather, it is only the observation of this Court that what seemed to be well settled to the contrary since 1996 has now been elevated to a directive from OSCA to begin on August 28, 2013 a surcharge collection effort which will most assuredly have a significant impact on defendants in the Municipal Court of Kearney. Unless some logical nexus exists between the surcharge and the justice system purposes of the Kearney Municipal Court, said surcharge must be regarded with a jaundiced eye. This Court finds that no such

³ There are a number of surcharges (part of "court costs" as defined in Section 488.010(1) RSMo) which municipal courts must by statutory mandate collect, or if authorized by city ordinance, may collect. All of these surcharges (Domestic Violence Shelter, Section 488.607 RSMo; Inmate Security Fund, Section 488.5026 RSMo; POST, Section 488.5336 RSMo, and Crime Victim Compensation, Section 488.5339.1 RSMo) are authorized by specific reference in each such statute to apply to municipal ordinance violations. The Sheriffs' Retirement Fund surcharge, Section 488.024 RSMo (same as Section 57.955 RSMo), does not make any reference that it applies to municipal ordinance violations. It is also noteworthy that the surcharge for Crime Victim Compensation, referenced above, and for the Domestic Violence Shelter, also referenced above, are to be collected in "criminal" cases, which each Section states, include municipal ordinance violations. The legislature therefore considers a municipal ordinance violation as a "criminal" case for purposes of these two surcharges. The Attorney General did not reference these surcharge statutes in his Opinion, concluding instead that municipal ordinance violations are "civil" cases.

logical nexus exists, and thus, a very critical view of the constitutionality of the surcharge is wholly justified.

The COSCA Policy Paper concludes that "The proliferation of these fees and costs as chargeable fees and costs included in the judgment and sentence issued as part of the legal financial obligation of the defendant has recast the role of the court as a collection agency for executive branch services." This is precisely the vice that was observed and disapproved in *Harrison, supra*.

It cannot be seriously argued that the duties of the 114 sheriffs⁴⁴ of this State include services to the municipal courts of the State. Sheriffs are county employees. They have no connection whatsoever to municipal court administration. Assessing municipal court defendants with a surcharge to fund a retirement plan for county sheriffs, or for their surviving spouses, fails the test set out in *Harrison*. The surcharge for the Sheriffs' Retirement Fund is not "reasonably related" to the "expenses of the administration of justice" of the Lake Tapawingo Municipal Court.

Defendants in the Lake Tapawingo Municipal Court, if found guilty, or if they plead guilty, would be faced with paying an extra three dollars per charge, which money is payable to a retirement fund for persons who have no relationship whatsoever to the administration of justice in Lake Tapawingo Municipal Court.

This Court is obligated to follow its interpretation of the statutes regarding the surcharge in question, the *Harrison* case, the Missouri Constitution and the Judicial Canons.

This Court finds that the Section 55.955, by its terms as interpreted herein, does not require that this Court collect a three dollar surcharge on municipal ordinance violation cases that come before it and that the imposition of the Sheriffs' Retirement Fund surcharge in the Lake Tapawingo Municipal Court would entail a sale of justice by the judges of this Court. Such surcharge, if it did apply to this Court, would result in an unreasonable impediment to a defendant's access to justice in violation of Article I §14 of the Missouri Constitution. The Court would violate its duty to comply with the law if it assessed such a surcharge.

Order Sua Sponte

The Court Administrator is hereby ordered not to assess or collect a Sheriffs' Retirement Fund surcharge on any case adjudicated in this Court until further notice by this Court or until a ruling to the contrary by a higher court.

Dated this 8th day of August, 2013.

Judge Robert K. McDonald
Lake Tapawingo Municipal Court

⁴ The beneficiaries of the Sheriffs' Retirement Fund are solely retired sheriffs, and their surviving spouses, not retired deputy sheriffs.

EXHIBIT A

57.955.Surcharge, exceptions--sheriffs' retirement fund, sources of funds, uses (Current Statute)

1. There shall be assessed and collected a surcharge of three dollars in all civil actions filed in the courts of this state and in all criminal cases including violation of any county ordinance or any violation of criminal or traffic laws of this state, including infractions, but no such surcharge shall be assessed when the costs are waived or are to be paid by the state, county or municipality or when a criminal proceeding or the defendant has been dismissed by the court. For purposes of this section, the term "county ordinance" shall not include any ordinance of the city of St. Louis. The clerk responsible for collecting court costs in civil and criminal cases, shall collect and disburse such amounts as provided by sections 488.010 to 488.020 [FNI]. Such funds shall be payable to the sheriffs' retirement fund. Moneys credited to the sheriffs' retirement fund shall be used only for the purposes provided for in sections 57.949 to 57.997 and for no other purpose.

2. The board may accept gifts, donations, grants and bequests from public or private sources to the sheriffs' retirement fund.

Below shows the 1996 amendments to Section 57.955 which resulted in the current statute shown above.

57.955. 1. <<-After the effective date of the establishment of the system, in addition to all other legal costs in each civil suit, action, case and all other proceedings of a civil nature filed in each circuit court and the divisions thereof, except the municipal and juvenile divisions, in a county->> There shall be assessed and collected <<-in the same manner as other civil court costs are collected a sum->> <<+a surcharge+>> of three dollars <<+in all civil actions filed in the courts of this state+>> and in all criminal cases <<-a sum of two dollars,->> <<+including violation of any county ordinance or any violation of criminal or traffic laws of this state, including infractions,+>> but no such <<-costs->><<+ surcharge+>> shall be assessed when the costs are <<+waived or are+>> to be paid by the state <<-for indigent defendants->><<+, county or municipality or when a criminal proceeding or the defendant has been dismissed by the court. For purposes of this section, the term "county ordinance" shall not include any ordinance of the city of St. Louis.+>> The clerk<<-, or other official->> responsible for collecting court costs in civil and criminal cases, shall collect <<+and disburse+>> such amounts <<-and shall remit them monthly to the board for deposit in->> <<+as provided by section 514.015, RSMo. Such funds shall be payable to+>> the sheriffs' retirement fund. <<-The clerk, or other official, shall keep accurate records of the amounts collected for the sheriffs' retirement fund pursuant to this subsection and the records may be audited by the board of directors at any time.->> Moneys credited to the sheriffs' retirement fund shall be used only for the purposes provided for in sections 57.949 to 57.997 and for no other purpose.

2. The board may accept gifts, donations, grants and bequests from public or private sources to the sheriffs' retirement fund.

Appendix D

Definitions.

488.010. As used in sections 488.010 to 488.020* and section 488.005**, the following words and phrases shall mean:

- (1) "Court costs", the total of fees, miscellaneous charges and surcharges, imposed in a particular case;
- (2) "Fees", the amount charged for services to be performed by the court;
- (3) "Miscellaneous charges", the amounts allowed by law for services provided by individuals or entities other than the court;
- (4) "Surcharges", additional charges allowed by law which are allowed for specific purposes designated by law.
- (5) **"Civil" shall mean all civil actions including juvenile cases filed pursuant to Chapter 211 but shall not include; those defined herein as small claims, simplified civil, municipal ordinance violations or county ordinance violations.**
- (6) **"Small Claims" shall mean all actions filed pursuant to Chapter 482.**
- (7) **"Simplified civil" shall mean all actions filed pursuant to Chapters 517, 534, 535 or 441.**
- (8) **"Probate" shall mean all actions filed pursuant to Chapters 472, 473, 474, 475, 631, 632 or section 571.092 RSMo.**
- (9) **"Criminal" shall mean all offenses except municipal ordinance violation and county ordinance violations.**
- (10) **"Infraction" shall mean the definition provided in 556.021.**
- (11) **"Misdemeanor Criminal" shall mean the definition provided in 556.016, but shall not include traffic violations or municipal ordinance violations or county ordinance violations, as defined in this section.**
- (12) **"Felony Criminal" shall mean the definition provided in 556.016,**
- (13) **"Traffic violation" shall mean a non-felony case filed under chapters 301, 302, 304, 307 or 390, except for those traffic offenses involving operating a motor vehicle or watercraft while intoxicated or under the influence of intoxicants or drugs or operating a vehicle with a counterfeited, altered, suspended or revoked license. Traffic violation shall not include any county ordinance violation or municipal ordinance violation originally heard before the county or city municipal court.**
- (14) **"County ordinance violation" shall mean any case filed pursuant to a violation of a county ordinance.**
- (15) **"Municipal ordinance violation" shall mean any case filed pursuant to a violation of a municipal ordinance.**

Model Language

488.031. Additional fees for civil and criminal actions and proceedings, collection of.

1. In addition to other fees authorized by law, the clerk of each court shall collect the following fees on the filing of **the following case types as defined in section 488.010 RSMo** ~~{any civil or criminal action or proceeding, including an appeal, except that no fee shall be imposed pursuant to this section on any case that is filed charging traffic violations except alcohol-related offenses;}~~

- a. Supreme court and court of appeals \$20.00;
- b. Civil \$10.00**
- c. Probate \$10.00**
- d. Minor civil \$8.00**
- e. Felony \$10.00**
- f. Misdemeanor \$8.00**
- g. Infraction \$8.00**

~~[Circuit division \$10.00;~~

~~Associate circuit courts \$ 8.00; and]~~

- h. Small claims courts** No additional fee

2. Court filing surcharges pursuant to this section shall be collected in the same manner as other fees, fines, or costs in the case. The amounts so collected shall be paid by the clerk to the office of the state courts administrator and credited to the special fund designated as the basic civil legal services fund. However, the additional fees prescribed by this section shall not be collected when a criminal proceeding or defendant has been dismissed by the court **or when a defendant is found not guilty** or when costs are waived or are to be paid by the state, county, municipality, or other political subdivision of this state.

Statutory sections that may need to be revised.

§ 302.137. Motorcycle safety trust fund established, purpose -- operators of motorcycles or motortricycles in violation of laws or ordinances to be assessed surcharge, collection, distribution

§ 304.027. Spinal cord injury fund created, uses -- surcharge imposed, when

§ 304.028. Brain injury fund created, moneys in fund, uses -- surcharge imposed, when

§ 488.024. Assessment of surcharge, exceptions--remittance to sheriffs' retirement fund

§ 488.026. Surcharge for all criminal cases, amount--county ordinance defined--collection and deposit of funds.

§ 488.027. Statewide court automation fund fee, amount, disposition.

§ 488.029. Surcharge for crime lab analysis of controlled substances, deposit of moneys in state forensic laboratory account.

§ 488.426. Deposit required in civil actions--exemptions--surcharge to remain in effect--additional fee for adoption and small claims court (Franklin County)--expiration date.

§ 488.435. Sheriff to receive charges for civil cases.

§ 488.447. Court restoration fund--special surcharge in civil cases to be deposited in fund--exempt cases--expires when.

§ 488.607. Additional surcharges authorized for municipal and associate circuit courts for cities and towns having shelters for victims of domestic violence, amount, exceptions.

§ 488.635. Surcharge collected, deposit into domestic relations resolution fund.

§ 488.636. Two-dollar surcharge to be collected on domestic relations cases--deposit into Missouri CASA fund.

§ 488.2275. Additional surcharge authorized for criminal cases (Greene, Cass, and Jefferson counties), violations of county and city ordinances, exceptions--use of revenue.

§ 488.4014. Court costs in certain civil and criminal cases, exceptions--collection and deposit procedure--distribution--county entitled to judgment, when.

§ 488.5017. Surcharge in criminal and infraction cases, exceptions.

§ 488.5026. Two dollar surcharge for all criminal cases, funds to be deposited in inmate prisoner detainee

§ 488.5332. Surcharge in criminal cases, when, exceptions--payment to independent living center fund.

§ 488.5336. Court costs may be increased, amount, how, exceptions, deposit--additional assessment--use of funds--amount of reimbursement.

§ 488.5339. Surcharge for crime victims' compensation fund, exceptions--surcharge in juvenile court proceedings where child allegedly violates state law or municipal ordinance--disbursement.