

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 192
100TH GENERAL ASSEMBLY

Reported from the Committee on Government Reform, April 18, 2019, with recommendation that the Senate Committee Substitute do pass.

0761S.05C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal sections 479.011, 543.270, and 558.006, RSMo, and to enact in lieu thereof three new sections relating to court procedures, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 479.011, 543.270, and 558.006, RSMo, are repealed
2 and three new sections enacted in lieu thereof, to be known as sections 479.011,
3 543.270, and 558.006, to read as follows:

479.011. 1. (1) [The following cities may establish an administrative
2 adjudication system under this section:

3 (a) Any city not within a county;

4 (b) Any home rule city with more than four hundred thousand inhabitants
5 and located in more than one county;

6 (c) Any home rule city with more than seventy-three thousand but fewer
7 than seventy-five thousand inhabitants; and

8 (d) Any home rule city with more than one hundred fifty-five thousand but
9 fewer than two hundred thousand inhabitants.

10 (2) The cities listed in subdivision (1) of this subsection] **A city or**
11 **village** may establish, by [order or] ordinance, an administrative system for
12 adjudicating housing, property maintenance, nuisance, parking, [and] other civil,
13 nonmoving [municipal code violations] **traffic violations, and minor traffic**
14 **violations and municipal ordinance violations as defined in section**
15 **479.350, as administrative adjudications** consistent with applicable state
16 law. **The city or village shall designate a hearing officer who shall be**
17 **licensed to practice as an attorney at law in the state of Missouri and**
18 **may be the municipal judge.**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 **(2) Such administrative adjudication system shall be subject to practice,**
20 **procedure, and pleading rules established by the state supreme court, circuit**
21 **court, or municipal court, except as provided within this section.** This
22 section shall not be construed to affect the validity of other administrative
23 adjudication systems authorized by state law and created before August 28, 2004.

24 **(3) Such administrative adjudications shall not be considered**
25 **contested cases under chapter 536 and shall be governed by the**
26 **provisions of this section.**

27 **(4) Any municipal judge may refer any case pending before such**
28 **judge, which would fall within the jurisdiction of the administrative**
29 **tribunal, to such administrative tribunal. The dismissal of the**
30 **municipal court case shall occur upon notification by the**
31 **administrative tribunal of acceptance of the case. No costs shall be**
32 **taxed in the event of such a dismissal. If the reason for such referral**
33 **is, in part, due to the respondent having not responded to the original**
34 **summons as required on the matter referred, the court shall forward**
35 **a certification of nonappearance to the administrative tribunal.**

36 **(5) An administrative adjudication under such administrative**
37 **tribunal may be commenced by serving a code violation notice upon the**
38 **respondent by a person designated by the city or village for such**
39 **purpose. Such notice shall, at a minimum, inform the respondent of the**
40 **time and place of the hearing, the sections of the code or ordinance**
41 **which are alleged to have been violated, the time and place of the**
42 **alleged violation, and the range of penalties for such violation. The**
43 **code violation notice shall inform the respondent that the respondent**
44 **has a right to appear at the hearing, to present evidence, to question**
45 **the witnesses appearing, to subpoena witnesses, and to be represented**
46 **by an attorney at the respondent's cost. Such notice may be served on**
47 **the respondent by regular mail if the respondent signs and returns an**
48 **acknowledgment of receipt, or personal service, by registered mail with**
49 **return receipt. If the city or village has attempted by regular mail and**
50 **the respondent fails to acknowledge receipt, then the cost of personal**
51 **service or service by registered mail may be taxed to the respondent**
52 **regardless of outcome of the matter unless the respondent can show**
53 **good cause for having failed to do so.**

54 2. The [order or] ordinance creating the administrative adjudication
55 system shall designate the administrative tribunal and its jurisdiction, including

56 the code **or ordinance** violations to be reviewed. The administrative tribunal
57 may operate under the supervision of the municipal court, parking commission,
58 or other entity designated by [order or] ordinance and in a manner consistent
59 with state law. [The administrative tribunal shall adopt policies and procedures
60 for administrative hearings, and filing and notification requirements for appeals
61 to the municipal or circuit court, subject to the approval of the municipal or
62 circuit court.]

63 3. The administrative adjudication process authorized in this section shall
64 ensure a fair and impartial review of contested municipal code violations, and
65 shall afford the parties due process of law. **The hearing need not be**
66 **recorded and the tribunal shall not be considered a court of**
67 **record.** The formal rules of evidence shall not apply in any administrative
68 review or hearing authorized in this section. Evidence, including hearsay, may
69 be admitted only if it is the type of evidence commonly relied upon by reasonably
70 prudent persons in the conduct of their affairs. The code violation notice,
71 property record, and related documentation in the proper form, or a copy thereof,
72 shall be prima facie evidence of the municipal code violation. The officer who
73 issued the code violation citation need not be present. **On a finding that**
74 **service has been properly affected, the administrative tribunal may**
75 **proceed with the hearing regardless of whether the respondent**
76 **participates. The hearing officer shall enter a written finding, but the**
77 **findings of fact and conclusions of law shall not be required.**

78 4. **An administrative tribunal may impose a fine for a violation**
79 **of any ordinance within its jurisdiction.** An administrative tribunal may
80 not impose incarceration or any fine in excess of the amount allowed by law **for**
81 **municipal courts hearing similar cases. In addition to any fine, the**
82 **administrative tribunal may assess the reasonable costs of the hearing**
83 **or of prosecution, not including costs of notice except as provided**
84 **within this section, to the respondent if the respondent is found to have**
85 **violated the municipal ordinance. If the respondent is found to have**
86 **violated any municipal ordinance which such violation could have been**
87 **prosecuted in the municipal court, the administrative tribunal shall**
88 **assess any fees authorized under sections 488.607, 488.5026, and**
89 **488.5336, in the same manner as in municipal courts.** Any sanction, fine
90 or costs, or part of any fine, other sanction, or costs, remaining unpaid after the
91 exhaustion of, or the failure to exhaust, [judicial] **administrative** review

92 procedures under chapter 536 shall be a debt due and owing the city **or village**,
93 and may be collected in accordance with applicable law. **Any final decision or**
94 **disposition of a code violation by an administrative tribunal shall**
95 **constitute a conviction as defined in section 302.010. Points shall be**
96 **assessed by the department of revenue for driving violations in the**
97 **same manner as in municipal court proceedings. Upon conviction by**
98 **the administrative tribunal and if authorized by the city or village**
99 **ordinance, the department of revenue shall assess an additional two**
100 **points if the municipal court issued a certification of nonappearance,**
101 **as provided within this section, and the administrative tribunal finds**
102 **that the respondent has presented no just cause for nonappearance.**

103 5. Any final decision or disposition of a code **or ordinance** violation by
104 an administrative tribunal shall constitute a final determination for purposes of
105 judicial review. Such determination is subject to review under chapter 536 or, at
106 the request of the [defendant] **respondent** made within ten days, a trial de novo
107 in the circuit court. After expiration of the judicial review period under chapter
108 536, unless stayed by a court of competent jurisdiction, the administrative
109 tribunal's decisions, findings, rules, and orders may be enforced in the same
110 manner as a judgment entered by a court of competent jurisdiction. Upon being
111 recorded in the manner required by state law or the uniform commercial code, a
112 lien may be imposed on the real or personal property of any [defendant entering
113 a plea of nolo contendere, pleading guilty to, or found guilty of a municipal code
114 violation] **respondent against whom a judgement has been entered** in the
115 amount of any debt due the city **or village** under this section and enforced in the
116 same manner as a judgment lien under a judgment of a court of competent
117 jurisdiction. The city **or village** may also issue a special tax bill to collect [fines
118 issued for housing, property maintenance, and nuisance code violations]
119 **judgments entered under this section.**

 543.270. [1. When any person shall be unable to pay any fine and costs
2 assessed against him, the associate circuit judge shall have power, at the request
3 of the defendant, to commute such fine and costs to imprisonment in the county
4 jail, which shall be credited at the rate of ten dollars of such fine and costs for
5 each day's imprisonment.

6 2.] When a fine is assessed by [an] **a municipal judge**, associate circuit
7 judge, **or circuit judge**, it shall be within his **or her** discretion to provide for
8 the payment of the fine on an installment basis under such terms and conditions

9 as he or she may deem appropriate. **In no event shall the recovery of costs**
10 **incurred by a municipality or county for the detention, imprisonment,**
11 **or holding of any person be the subject of any condition of probation,**
12 **nor shall the failure to pay such costs be the sole basis for the issuance**
13 **of a warrant.**

558.006. [1.] When an offender sentenced to pay a fine defaults in the
2 payment of the fine or in any installment, [the court upon motion of the
3 prosecuting attorney or upon its own motion may require him or her to show
4 cause why he or she should not be imprisoned for nonpayment. The court may
5 issue a warrant of arrest or a summons for his or her appearance.

6 2. Following an order to show cause under subsection 1 of this section,
7 unless the offender shows that his or her default was not attributable to an
8 intentional refusal to obey the sentence of the court, or not attributable to a
9 failure on his or her part to make a good faith effort to obtain the necessary funds
10 for payment, the court may order the defendant imprisoned for a term not to
11 exceed one hundred eighty days if the fine was imposed for conviction of a felony
12 or thirty days if the fine was imposed for conviction of a misdemeanor or
13 infraction. The court may provide in its order that payment or satisfaction of the
14 fine at any time will entitle the offender to his or her release from such
15 imprisonment or, after entering the order, may at any time reduce the sentence
16 for good cause shown, including payment or satisfaction of the fine.

17 3. If it appears that the default in the payment of a fine is excusable
18 under the standards set forth in subsection 2 of this section, the court may enter
19 an order allowing the offender additional time for payment, reducing the amount
20 of the fine or of each installment, or revoking the fine or the unpaid portion in
21 whole or in part.

22 4. When a fine is imposed on a corporation it is the duty of the person or
23 persons authorized to make disbursement of the assets of the corporation and
24 their superiors to pay the fine from the assets of the corporation. The failure of
25 such persons to do so shall render them subject to imprisonment under
26 subsections 1 and 2 of this section.

27 5. Upon default in the payment of a] **the** fine or [any] installment
28 [thereof, the fine may] **shall** be collected by any means authorized for the
29 [enforcement] **collection** of money judgments, **other than a lien against real**
30 **estate, or may be waived at the discretion of the sentencing judge.**

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