

IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI

AN ORDINANCE repealing section 1810., Jackson County Code 1984, relating to costs in the County Municipal Court, and enacting in lieu thereof, one new section relating to the same subject.

ORDINANCE NO. 5525, July 12, 2021

INTRODUCED BY Dan Tarwater III, County Legislator

WHEREAS, by its opinion in the case of Fowler v. Missouri Sheriffs' Retirement System, Case No. SC98484, (Mo. banc 2021), the Supreme Court of Missouri held that the Missouri statute that authorized a \$3.00 court cost to be imposed in County Municipal Court for the benefit of the Sheriffs' Retirement System resulted in a sale of justice in violation of article I, section 14 of the Missouri Constitution; and,

WHEREAS, in view of this ruling, it is appropriate that the County Code chapter setting out the allowable costs in County Municipal Court be revised to delete the reference to this now improper element of costs; now therefore,

BE IT ORDAINED by the County Legislature of Jackson County Missouri as follows:

Section A. Enacting Clause. Section 1810., Jackson County Code, 1984, is hereby repealed, and one new section enacted in lieu thereof, to be known as section 1810., to read as follows:

1810. Court Costs.

1810.1 Generally.

Costs and procedures in the County Municipal Court shall be governed by the provisions of law relating to municipal ordinance violations in municipal divisions of circuit courts.

1810.2 Specific Costs.

Specific items of court costs are as follows:

a. Clerk Fee

A fee of twelve dollars (\$12.00) shall be levied for each ordinance violation filed before a county municipal judge and in the event that a defendant pleads guilty or is found guilty, the judge may assess costs against the defendant. Except as otherwise provided, the costs of this subsection are in lieu of other court costs. The costs herein provided shall be collected by the authorized clerk and deposited into the county treasury. Section 488.012(6), RSMo.

a. County Fee.

A fee of ten dollars (\$10.00) shall be assessed for violation of a county ordinance, except that no such fee shall be collected when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the county. All such fees shall be payable to the county treasurer, who shall deposit those funds in the county treasury. Section 488.4014.1, RSMo.

c. Crime Victims' Compensation (CVC) Fund Surcharge.

A surcharge of seven dollars and fifty cents (\$7.50) for the "Crime Victims' Compensation Fund" shall be assessed as costs and distributed in the manner provided in section 595.045, RSMo, for violation of any county ordinance, except that no surcharge shall be collected when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the county. Sections 488.5339.1 and 595.045, RSMo.

d. Brain Injury Fund Surcharge.

A surcharge in the amount of two dollars (\$2.00) shall be assessed as costs for the violation of a county ordinance, which surcharge, when collected, shall be paid into the state treasury to the credit of the brain injury fund created by section 304.028.1, RSMo. No such surcharge shall be collected when the court has dismissed the charge against the defendant, or when the costs are to be paid by the county. Section 304.028, RSMo.

e. Independent Living Center Fund Surcharge.

A surcharge of one dollar (\$1.00) shall be assessed for violation of a county ordinance, except that no such surcharge shall be assessed when the proceeding or defendant has been dismissed by the court or when costs

are to be paid by the county. Such surcharge shall be collected by the clerk of the court and paid to the credit of the independent living center fund established by section 178.653. RSMo. Section 488.5332, RSMo.

f. Motorcycle Safety Trust Fund Surcharge.

A surcharge in the amount of one dollar (\$1.00) shall be assessed as costs for the violation of a county ordinance, which surcharge, when collected, shall be paid into the state treasury to the credit of the motorcycle safety trust fund created by section 302.137.1, RSMo. No such surcharge shall be collected when the court has dismissed the charge against the defendant, or when the costs are to be paid by the county. Section 302.137, RSMo.

g. Peace Officer Standards and Training (POST) Commission Surcharge.

A surcharge of one dollar (\$1.00) shall be assessed for the violation of a county ordinance. No such surcharge shall be assessed when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the county. The surcharges collected pursuant to this subsection shall be transmitted to the State Treasury to the credit of the peace officer standards and training commission fund created in section 590.178, RSMo. Section 488.5336.1, RSMo.

h. Prosecuting Attorneys and Circuit Attorneys' Retirement Fund Surcharge.

A surcharge in the amount of four dollars (\$4.00) shall be assessed as costs for the violation of a county ordinance, which surcharge, according to section 56.807 RSMo, shall be utilized by the county treasurer for payments required to be made pursuant to section 56.807, RSMo for the Missouri Prosecuting Attorneys and Circuit Attorneys Retirement Fund. No such surcharge shall be collected when the court has dismissed the charge against the defendant, when the costs have been waived or are to be paid by the county. Sections 488.026 and 56.807.7, RSMo.

i. Prosecuting Attorney Training Fund Surcharge.

A surcharge of five dollars (\$5.00) shall be assessed for violation of a county ordinance, except that no such surcharge shall be collected when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the county. Half of all moneys collected pursuant to this subsection shall be payable to the state treasurer for deposit to the credit of the "Missouri Office of Prosecution Services Fund" created by section 56.765.2, RSMo. Half of all moneys collected shall be payable to the county treasurer who shall deposit all of such funds into the county treasury in a separate fund to be used solely for the purpose of additional training for prosecuting attorneys and their staffs in accordance with the requirements of section 56.765.3, RSMo. Sections 488.5017 and 56.765, RSMo.

j. Sheriffs' Retirement Fund Surcharge.

A surcharge in the amount of three dollars (\$3.00) shall be assessed as costs for the violation of a county ordinance, which surcharge, according to section 488.024, RSMo, shall be utilized by the county treasurer for payments required to be made pursuant to section 488.024, RSMo for the Sheriff's Retirement Fund. No such surcharge shall be collected in any proceeding involving a violation of an ordinance when the court has dismissed the charge against the defendant, or when costs are to be paid by the county. Section 488.024, RSMo.

k] Spinal Cord Injury Fund Surcharge.

A surcharge in the amount of two dollars (\$2.00) shall be assessed for the violation of a county ordinance, which surcharge, when collected, shall be paid into the state treasury to the credit of the spinal cord injury fund created in section 304.027, RSMo. No such surcharge shall be collected when the court has dismissed the charge against the defendant, or when the costs are to be paid by the county. Section 304.027, RSMo.

[l] k. Juvenile Justice Preservation Fund Surcharge.

A surcharge in the amount of two dollars (\$2.00) shall be assessed as costs for the violation of a county traffic ordinance in which the defendant has plead guilty, according to the requirements of section 211.435, RSMo. No such surcharge shall be collected in any proceeding involving a violation of an ordinance when the court has dismissed the charge against the defendant, or when costs are to be paid by the county. Such surcharge shall be collected and disbursed by the clerk of the court as provided by sections 488.010 to 488.020, RSMo. The surcharge collected under this section shall be paid into the state treasury to the credit of the juvenile justice preservation fund created by section 211.435, RSMo. The provisions of this subsection shall expire on August 28, 2024. Section 211.435, RSMo.

[m] l. Domestic Violence Shelter Surcharge.

A surcharge of four dollars (\$4.00) shall be assessed for the violation of a county ordinance, except that no surcharge shall be collected when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the county. The surcharges levied pursuant to this subsection shall only be used for the purpose of providing operating expenses for shelters for battered persons as defined in sections 455.200 to 455.230, RSMo. Section 488.607, RSMo.

[n] m. Inmate Prisoner Detainee Security Fund Surcharge.

A surcharge of two dollars (\$2.00) shall be assessed for violation of a county ordinance, except that no such fee shall be collected when the proceeding or defendant has been dismissed by the court or when costs are to be paid

by the county. All such surcharges shall be payable to the county treasurer, who shall deposit those funds in an Inmate Prisoner Detainee Security Fund, to be utilized to develop biometric identification systems to ensure that inmates can be properly identified and tracked within the county jail system. Section 488.5026, RSMo.

[o] n. Law Enforcement Arrest Costs.

In addition to any other penalties imposed, the court may order a defendant who pleads guilty or is found guilty of violation of or any alcohol or drug-related traffic offense to reimburse the county for the costs associated with his arrest, including the reasonable cost of making the arrest, the cost of any chemical tests to determine the alcohol or drug content of the defendant's blood, and the cost of processing, charging, booking and holding the defendant in custody. The Sheriff may establish a schedule of such costs for submission to the Court. The costs herein provided shall be collected by the authorized clerk and deposited into the county treasury for deposit in a fund for the provision of services by sheriff. Section 488.5334, RSMo.

[p] o. Law Enforcement Training Fund Surcharge.

A surcharge of two dollars (\$2.00) shall be assessed for the violation of a county ordinance. No such surcharge shall be assessed when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the county. The surcharges collected pursuant to this subsection shall be transmitted to the County Director of Finance and Purchasing for deposit in a fund law enforcement training in accordance with section 488.5336, RSMo.

1810.3 Costs Not Assessed, When.

Costs shall not be assessed as provided in this section in those cases where the defendant is found by the judge to be indigent and unable to pay the costs. Additionally, the costs authorized in subsection 1810.2(f) may be reduced if the court determines that the schedule of costs is excessive given the circumstances of the case or for good cause shown.

1810.4 Other Charges.

Costs authorized by this section are in addition to service charges, witness fees, and jail costs that may otherwise be authorized to be assessed.

Effective Date: This ordinance shall be effective immediately upon its signature by the County Executive.

APPROVED AS TO FORM:

Jim D. Holden
Chief Deputy County Counselor

Bryan O. Covish
County Counselor

I hereby certify that the attached ordinance, Ordinance No. 5525 introduced on July 12, 2021, was duly passed on July 19, 2021 by the Jackson County Legislature. The votes thereon were as follows:

Yeas 9

Nays 0

Abstaining 0

Absent 0

This Ordinance is hereby transmitted to the County Executive for his signature.

7-19-2021
Date

Mary Jo Spino
Mary Jo Spino, Clerk of Legislature

I hereby approve the attached Ordinance No. 5525.

7-19-2021
Date

Frank White, Jr.
Frank White, Jr., County Executive