



JACKSON COUNTY Office of the County Counselor

Jackson County Courthouse-2nd Floor
415 East 12th Street
Kansas City, MO 64106

To: Frank White, Jr.
County Executive of Jackson County

From: Bryan Covinsky
County Counselor

Date: September 22, 2025

Subject: Legal guidance on Proposed Ordinance 6016

The Counselor's Office has been asked to provide an opinion on the legality and authority of the Legislature to enact Proposed Ordinance 6016. This ordinance has several structural issues, exceeds the authority of the Legislature, and violates due process.

P. Ord 6016 attempts to make it unlawful for a County Associate to make false or misleading statements to the Legislature, the legislative staff or any legislative committees. The ordinance indicates that a violation "shall result in immediate disciplinary action up to and including termination." P. Ord 6016 also seeks to amend Chapter 74 of the Jackson County Code relating to the Office of Ethics Human Relations and Citizen Complaints (OEHRCC).

The Jackson County Home Rule Charter, in Article II, Section 16, subsection 35, states that the Legislature has the power to issue subpoenas for witnesses and for records and provide penalties for the failure to answer any such subpoena. P. Ord 6016 does not state that it is in relation to such subpoena powers. Additionally, individual legislators do not have the power to administer oaths.

However, the Clerk of the Legislature "shall perform all duties required to be performed by a county clerk or clerk of the county court..." pursuant to Article II, Section 19. The Clerk of the Legislature is authorized under this section and RSMo §492.010 to "administer oaths and affirmations to witnesses and others concerning any thing or proceeding pending before them..." This means that the Clerk could administer an oath to a witness before the Legislature and if that oath were violated, the crime of perjury under RSMo §575.040 has already occurred.

The process of administering an oath to a witness already provides for the remedy that P. Ord 6016 seeks to create. This makes it duplicative of state law.

Additionally, in order to subject any person to a criminal penalty, as insinuated in the P. Ord 6016, there must be adequate due process under the 5th Amendment. This ordinance does not define the terms used, delineate a process for a determination that a violation has been committed, indicate how if a violation is committed it would be addressed, or list the rights of the Associate accused of such violation. The ordinance does not meet the standards of due process.

P. Ord 6016 does not add a new restriction to Chapter 55 of the Jackson County Code, which would be necessary to make such conduct “unlawful” or able to be referred to “the County Prosecutor’s Office” as stated in the text of the ordinance. As stated above, it is unlikely that such a law would be valid even if this proposed ordinance did actually add a new petty offense as required.

Finally, P. Ord 6016 exceeds the authority of the Legislature to administer discipline to Jackson County Associates and also attempts to side-step the regular disciplinary and Merit Commission processes as outlined in the County Code and Charter.¹ Article III, Section 6, subsection 11 states that the administrative organization of the departments is under the authority of the County Executive. Taken in connection with Jackson County Code 706.1, the individual promulgation or modification of personnel rules is the purview of the County Executive. This includes the implementation of rules associated with discipline.

County Code 721 states that the appointing authority has the exclusive authority to discipline employees under their direction pursuant to the limitations of law and the personnel rules as promulgated by the County Executive. P. Ord 6016 would circumvent and override the authority of both the County Executive and the appointing authority regarding disciplinary matters. Therefore, the Ordinance does not comply with the Charter provisions for the Legislature as to their authority with the associates of the County and would be inconsistent with the Code that supports the Charter structure.

¹ Operation of this ordinance would also likely violate various union agreements and MOUs.