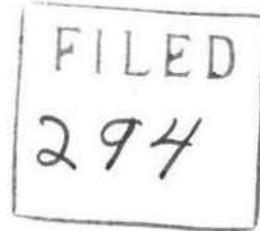


July 17, 1970



OPINION LETTER NO. 294

Honorable E. J. Cantrell  
State Representative  
Thirty-third District  
3406 Airway  
Overland, Missouri 63114

Dear Representative Cantrell:

This letter is in answer to your question asking what action a city of the fourth class, within a first class county having a charter form of government, may take in the event of the disqualification of the municipal judge because of illness, absence or disability.

Section 98.500, House Bill No. 199, Seventy-fifth General Assembly, V.A.M.S., states in part:

"The mayor and board of aldermen of cities of the fourth class located in any county of the first class with a charter form of government shall, by ordinance, provide for the election or appointment of a municipal judge, who shall be licensed to practice as an attorney in this state; except that, any person who is holding the office of police judge in any fourth class city on October 13, 1969, shall be eligible for the office of police judge without being licensed to practice law. Any person who is elected municipal judge shall be a resident of the city during his term of office. A person appointed municipal judge need not be a resident. The person who is appointed to serve as municipal judge may also serve as municipal judge in some other fourth class city or town or village." (Emphasis added).

Honorable E. J. Cantrell

Under Section 98.510, V.A.M.S., the municipal judge of a fourth class city:

" . . . in any first class county with a charter form of government, shall be conservators of the peace, and shall have exclusive original jurisdiction to hear and determine all offenses against the ordinances. . ."

Thus, under provisions of the statute no one except the municipal judge can hear the case nor is there anyone else to whom the case may be transferred under Rule 37.91 of the Missouri Supreme Court on "Practice and Procedure in Municipal Courts."

Your attention is invited to the fact that the Missouri Supreme Court under authority of Article V, Section 6 of the Missouri Constitution exercises the authority to transfer a municipal judge from one city to another for good cause shown such as illness, absence or disability of the incumbent.

Very truly yours,

JOHN C. DANFORTH  
Attorney General