

Rooker Report

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NEW LITIGATION SURTAX TO HELP FINANCE LEGAL AID

Starting July 1, the cost of filing civil lawsuits will increase to help finance legal representation for the poor.

For cases in Circuit and Chancery courts, that means an additional \$20, bringing to \$47.50 the total litigation tax required for each original civil suit filing. The increase will be only \$3 for civil cases filed in General Sessions Court.

The \$20 increase will be divided equally between the state and metropolitan government with all of the state's \$10 share going to provide

legal representation of indigents in civil matters.

The funding bill was passed by the state legislature to help offset existing and proposed federal cutbacks to the nation's legal aid programs. The cost of providing legal services to the poor in Tennessee is about \$7 million a year, much of which will be offset by the tax increase.

Metro will realize a windfall from the state's action as a result of a charter amendment in 1992 requiring the county to collect litigation taxes equal to the rate charged by the state.

Unlike the state, Metro does not earmark litigation tax collections for specific services. All the money is dumped into the general operating fund and used at the discretion of the government.

The latest increase will amount to about \$40,000 in new annual revenue for each level of government from civil cases filed in circuit court alone.

Metro does not collect litigation taxes on civil cases filed in general sessions court, which will impose a flat \$3 increase, bringing the total state

(See LIT TAX, Page 3)

Metro Doubles Handicapped Parking Fines

As tempting as it may be, you had best pass up that handicapped parking space the next time you need to dart into a store. Unless, of course, you have a permit to park there.

Otherwise, a quick loaf of bread could cost you a whole lot more than it's worth.

Under new laws handed down by both state and local lawmakers, not only will violators be paying twice the traditional fine amount, their chances of getting ticketed will soon be greatly increased.

The state legislature has given law enforcement agencies the right to appoint volunteers to issue citations for unauthorized use of handicapped parking areas, effective July 1.

And the Metro Council has doubled the penalty for such violations to \$50 for first time offenders and \$100 for subsequent offenses.

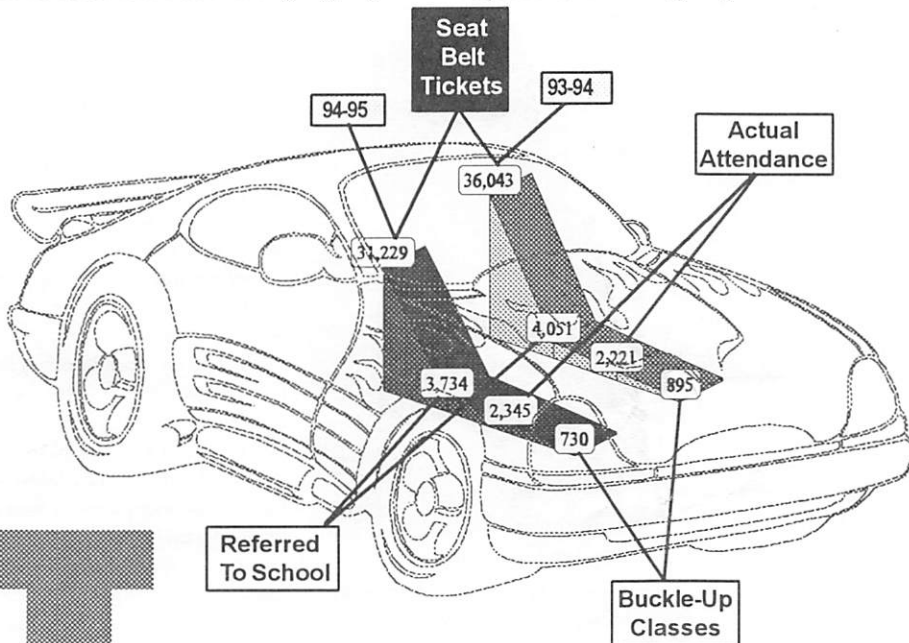
The legal effective date for the new fines was May 6, but because the change caught administrators by surprise, the change has been delayed until Sept. 1.

Circuit Court Clerk Richard Rooker, whose office manages traffic and parking fine collections, said it would take about three months to have tickets printed reflecting the new fine amounts.

"Ordinarily," Rooker said, "we would add sticker labels showing the new amount. But because of the composition of parking tickets, that would not be practical or feasible."

Until new tickets are readied for distribution, first-time violators will be required to pay only \$25 and multiple offenders \$50.

As for the volunteer enforcers, it will be interesting to see just how many there will be and what kind of procedure will be adopted to accommodate them.



TIGHTENING THE BELT

Part 2

If you don't think prosperity has a price tag, just ask the people who operate Metro's traffic school programs.

The city's success in attracting events of national appeal has placed such demand on the police department that there is far less time and manpower to enforce traffic laws.

Consequently, there are fewer candidates for traffic classes, which means fewer dollars to support the alternative school program. Toss in the new seat belt fine schedule and you have the ingredients for...well, a reasonable explanation.

But don't jump to conclusions. The school program is still holding its own in the revenue department with enough left over to supplement

the government's general operating fund. Self-sufficiency is not the issue. The lack of growth is.

Thanks in part to decreases in the number of tickets being written, the driver education program has been stuck in reverse for the past two years. Overall revenue this fiscal year will fall about \$45,000 short of last year and last year was down from the previous year.

While other factors must be considered -- such as an increase in the number of accidents that take police officers away from traffic surveillance -- the decline in ticket issuance can be more accurately attributed to the growing number of special events that require police security.

(See TIGHTENING, Page 2)

T Lightening the Belt

Second of Two Parts

(From Page 1)

Prior to the decline, there wasn't a vice president from Tennessee making visits to the city. Second Avenue wasn't bustling. Bridgestone Tire Company wasn't on strike. Factor in other stalwart events -- such as Summer Lights and the Sara Lee and Bell South Seniors golf tournaments -- and you get a pretty good idea of where much of the police manpower has been necessarily concentrated.

The effects on the safety school program can be witnessed nightly in classrooms that once bursted at the seams but now are punctuated by empty seats. Where enrollees could expect to wait up to six weeks for available classroom space two years ago, placement can now be arranged in less than two weeks.

Dr. Peggy Reynolds, chief administrator of the school program, is concerned that continued enforcement slumps could produce deadly results and curb progress being made by the county's remedial DUI program. She noted that the number of road fatalities had been significantly reduced under a supervised treatment program begun in 1988, but that the fatality rate had now returned to its previous level because of less enforcement.

Saving Lives is School's Ultimate Goal

Since saving lives is the chief premise of the school concept, fatality statistics are the ultimate barometer of the program's effectiveness. They also reflect the accumulative value of specific courses that make up the total program. One such course is Buckle-Up, designed exclusively for seat belt violators.

At the discretion of the court, a person charged with violating the state seat belt law can pay a \$20 enrollment fee and attend the Buckle-Up class in lieu of paying a fine. Ideally, the violator saves money and benefits from class instruction.

But the monetary benefits of the class became less appealing last year when the state legislature reduced the maximum fine amount from \$50 to \$20. Since then, enrollment in the Buckle-Up class has dropped by 18.4 percent. Further cuts can be expected as more motorists learn that the fine is the same amount as the cost of class enrollment. Adjudicated seat belt violations are not reported to the state.

Since seat belt citations normally are issued when drivers are stopped for other reasons, the majority of buckle-up offenders are assigned to a combination class that addresses each violation. Separate enrollment fees allow the school program to recoup some of the deficit incurred by the Buckle-Up class.

Continuance Policy Abuse Under Scrutiny

The Buckle-Up class is not in jeopardy of being canceled at this point. Revenue generated by the course helps finance the school program's annual operating budget, which held at \$410,000 for the upcoming fiscal year. That is about \$250,000 less than the revenue projection for the same period.

Dr. Reynolds said all areas of the school program are being evaluated for possible improvements. A procedural change, she said, is being considered to prevent abuse of the program's lenient continuance policy. Currently, class enrollees are permitted to reschedule their class dates as often as necessary and are billed \$15 for each continuance. The money is not collected until the enrollee appears for the class.

"The problem with that system," said Dr. Reynolds, "is that once the continuance fee amount reaches or passes the amount of the fine, the person pays off the ticket and the school is left with nothing to show for the time and effort spent on accommodating that person."

Such administrative glitches are both identifiable and remedial. It's the volume of business that bothers school officials. But, like the rules they teach, their seat belts are buckled tight -- just in case the ride gets rough.

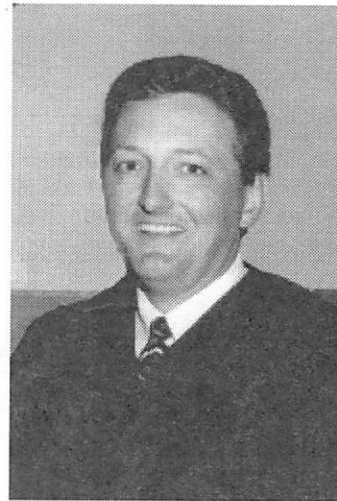
Order
In the Council

Here's How Next Judicial Vacancy Will Be Handled

The next time there is a judicial vacancy in Davidson County, there will be an organized, systematic, etched-in-stone method of filling it.

Hoping to avoid the same avalanche of criticism that snowballed from the recent controversial selection of Madison attorney Casey Moreland, the Metro Council has now adopted a set of guidelines to govern future judicial appointments.

Moreland, you will recall, was picked by the council to fill the General Sessions Court vacancy created by the death of Judge Donald Washburn. And while nobody argued the fact that Moreland was ably qualified for the post, there was a fallout of complaints over the chaotic manner in which the selection process was handled. Even Moreland was embarrassed.



Judge Casey Moreland

Some council members wanted to defer a vote on the appointment in order to screen the other eight nominees, several who had become instant candidates through self-nomination from the floor. But unshakable commitments to Moreland, who had actively solicited support for the appointment, brought the matter to an immediate vote.

While many observers felt that the losing candidates were treated unfairly by only being allowed to briefly verbalize their qualifications, others contended that the same opportunity was afforded to everyone and those interested in the job should not have

waited until the last minute to make themselves available.

Moreland began campaigning for the post shortly after Washburn's death, despite an apparent majority council commitment to fellow member Randy Kennedy, who resigned from the council to seek the judgeship. When Kennedy changed his mind a few days before the council meeting, Moreland became the logical choice. Kennedy's withdrawal, however, provided sudden hope for others whose late entries failed to impress the majority of council members.

Moreland's win was bittersweet and he immediately announced his support for rules to govern future judicial appointments. The council wasted no time in establishing such procedural guidelines.

In the future, a judicial vacancy will be announced by the vice mayor four weeks prior to the date of the meeting in which the vacancy will be filled and all nominations must be filed in writing with the Metro Clerk one week after the vacancy is announced. No nominations will be accepted after that date.

Nominees must submit biographical information, along with a statement of their willingness to serve if appointed. They must also complete a detailed questionnaire regarding their experience, their personal and professional conduct and their physical and mental ability to serve. A waiver of confidentiality allowing background checks must also be included.

All candidates will be evaluated by the Nashville Bar Association in a poll of its members with results being made available to the council. The council's rules and confirmation committee will interview the nominees to ensure their qualifications prior to a vote by the full council membership.

Clerk's Fee Formula Withstands Court Test

Circuit Court Judge Muriel Robinson has upheld the constitutionality of a state law establishing a five percent clerk's fee for the collection and distribution of child support payments made through the courts.

Judge Robinson said the fee formula "is not selective in its application...is not discriminatory" and..."does not violate either equal protection or due process of law."

Nashville attorney Clark Shaw had challenged the constitutionality of the statute on behalf of a support-paying client who advocated a flat-rate service charge regardless of the amount of money paid through the courts.

Shaw argued that his client was being unduly penalized by being required to pay higher service fees than persons with lower child support payments. He claimed that the clerk provides the same

service for all payers and therefore should charge the same fee for everyone. But Robinson pointed out that all persons making child support payments through the clerk are subject to the same percentage and that "any variation in the amounts paid...result from differing amounts of support set by the court."

Shaw has appealed the ruling to the state Supreme Court.

Circuit Court Clerk Richard Rooker noted that while his office annually collects more in fees than is necessary to cover expenses, proposed alternative methods would result in a deficit and have a detrimental effect on his ability to keep pace with caseload growth. He added that surplus revenue generated by the current fee system is turned over to the Metro general fund and used to help finance other government services. Rooker's office distributes payments to more than 8,000 support cases.

Court Panel on Race Bias Wants Input from Public

The Tennessee Supreme Court Commission on Racial and Ethnic Fairness wants to hear from people who have experienced dissatisfaction in dealing with the various functions of the state judicial system.

The commission, appointed by the high court last September, has scheduled public hearings at three regional locations to embellish its evaluation of the system's treatment of all persons, regardless of race or ethnic status.

Nashville will host one of the hearings on Aug. 23 at a site to be announced later. The first forum is scheduled for July 26 in Memphis and the final hearing will be in Chattanooga on Sept. 19.

Nashville attorney Renard A. Hirsch, Sr., commission chairman, said information garnered from the hearings would help the members formulate recommendations when the commission reports to the high court next June.

The commission was established to examine the components of the state's judiciary and recommend revisions in



RENARD HIRSCH, SR.
...chairs high court panel

rules, procedures and administration "to ensure equality of treatment for all persons free from race or ethnic bias."

Included in the commission's scope of inquiry is courtroom treatment of litigants, witnesses and attorneys as each issue relates to racial or ethnic fairness. The group also will examine the disparate treatment in such areas as child support, support enforcement, fee-generating court appointments, judicial nominating process, status of court employment and promotion, and treatment of lawyers in professional environments.

The 24-member panel is made up of hand-picked representatives in all three geographical sections of the state. Middle Tennessee is represented by eight members, plus Supreme Court Justice A.A. Birch, who serves as an ex-officio member along with Suzanne G. Keith of the high court's administrative office.

Besides chairman Hirsch, other Nashvillians on the panel are Bishop Betram Herlong, Cynthia Morin, Court of Criminal Appeals Judge David H. Welles, and attorneys Tammy L. Kennedy and Abby R. Rubinfeld. Robertson County Judge Burton D. Glover and Sumner County Medical Center Volunteer Director Darlene Sisco round out the area members.

Lyle Becomes First Female Chancellor



ELLEN HOBBS LYLE
New Chancellor

Attorney Ellen Hobbs Lyle has been appointed Davidson County's first woman chancellor, filling the vacancy created by the May retirement of veteran jurist C. Allen High.

Lyle, a 37-year-old wife and mother, has practiced civil law in Nashville for the past 11 years and was one of three lawyers recommended for the chancery

post by the state judicial selection commission. The other two -- Frank Clement Jr., and E. Clifton Knowles -- are Democrats while Lyle is a Republican, the same party affiliation as Gov. Don Sundquist, who made the appointment.

Lyle will complete High's term, which expires next year, and has indicated she will seek election to the post at that time.

The new chancellor is a native of Davidson County and received her law degree from the University of Tennessee. She is a partner in the law firm of Trabue, Sturdivant & DeWitt, a former member of the Tennessee Bar Journal editorial board and a former president of the Young Lawyers Division of the Nashville Bar Association.

Lit Tax Increase

(From Page 1)

tax to \$17.50. The entire \$3 surcharge will go to the legal aid fund.

The lit tax on appeals from general sessions will be \$47.50, the same as an original case in circuit and chancery.

Nashville attorney Ashley Wiltshire, executive director of the Legal Aid Society of Middle Tennessee, called the increase "very timely" in view of looming federal cutbacks.

Two proposals awaiting action by the Congress would phase out funding of the Legal Services Corporation, which administers state legal indigence financing, Wiltshire said. Total extinction of federal funds can be expected within the next three years, he added.

Wiltshire said the state's new litigation surtax is expected to make up about one-half of the losses expected to be incurred with the federal cutbacks. At present time, he said, federal funding accounts for about 65 percent of the state's legal aid revenue.

In Middle Tennessee alone, Wiltshire said, only about one out of five persons seeking representation through the program can be accommodated. There are 14 salaried attorneys on staff in the region's four offices, which are supplemented by pro bono programs of local bar associations.

DATA BANK

Statistics compiled for the month of May

Case Information

Circuit Court

New Civil Cases Filed	307
Civil Cases Concluded	326
New Divorce Cases Filed	311
Divorce Cases Closed	388

General Sessions Civil

New Cases Filed	3,188
Executions Issued	2,592
Judgments Collected	\$543,138
Orders of Protection Petitions	206

Probate Court

New Cases Filed	194
Cases Closed	103
Cases Retired	83

Traffic Violations

Moving Citations	17,929
Parking Violations	10,388
Total Fines Collected	\$330,036
Nullifications	1,684
Nullification Fees Collected	\$15,156

Circuit Court Jury Trial Verdicts

Week of May 8

Case	Type	Court	Verdict
91C-2108	Auto Accident	2nd	Defendant
92C-40	Assault	1st	Hung Jury
93C-2508	Auto Accident	3rd (P)	\$10,754
94C-1924	Auto Appeal	5th (P)	\$10,000

Week of May 15

Case	Type	Court	Verdict
91C-1809	Slip/Fall	6th (P)	\$200,000
93C-448	Auto Accident	1st (P)	\$9,000
92C-1730	Auto Accident	5th (P)	\$31,067
94C-1850	Auto Accident	2nd (P)	\$7,800
93C-1641	Auto Accident	3rd (P)	\$1,615
92C-3280	Auto Accident	6th (P)	\$16,500

Week of May 15

Case	Type	Court	Verdict
94C-1902	Auto Appeal	6th (P)	\$1,434
93C-2890	Auto Accident	1st (P)	\$16,191
93C-1936	Auto Accident	2nd	Defendant

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Established by George L. Rooker (1929-1993),
(Circuit Court Clerk, 1968-1993)

Richard R. Rooker Circuit Court Clerk
Gene Baker Editor

July Birthdays

Traffic Violations Bureau

- 1 Steve Rose
- 4 Margie Perry
- 12 Candace Grisham
- 13 Corey Willett
- 14 Maria Harris
- 22 Michael Austin
- 23 Carlene Stoehr
- 27 Mike Fischer

Circuit Court

- 16 Karen Rooker
- 21 Jennifer Croft
- 24 Bill Underhill
- 29 Betty Thompson

General Sessions

- 15 Margaret Blair

Probate

None

June Omission

- 17 Mary Bixler

Cheers...

Lori Justice might be a candidate for the "proudest mom" award. She's been showing off son Cameron's report card to fellow workers in the Traffic Violations Bureau after the Gra-Mar Elementary student ranked in the top 10 percent of the nation's first-graders. "I can't believe it," said the glowing mom. "I guess he takes after me."...The courtship (excuse the pun) of Cheryl Kennedy and Jon Seaborg is about to culminate in marriage. She is a secretary to Circuit Court Judge Marietta Shipley; he is an assistant district attorney. And when they tie the knot on July 1, they effectively will become Nashville's answer to the Brady Bunch. Each has three children from previous marriage...It's nothing to cheer about, but we extend our best wishes to three employees whose lives have taken new directions. Jennifer Croft has accepted a position with Hospital Corporation of America after almost eight years with our general sessions and circuit court departments. Kathy Smith is moving from our circuit office after 10 years of service. She will be joining the Metro Employee Benefit Board after this month. And Nicole Fielder will make June 28 her last day as a Traffic Violations Bureau computer entry clerk. She will be relocating in Houston...Hats off to members of the state legislature for updating the statute relating to guardianship over probate cases involving minor heirs. Under new guidelines, guardianship does not terminate when the minor reaches the age of 18 unless proof is shown that the minor is of such maturity to appreciate his financial responsibilities. Otherwise, guardianship continues until the minor reaches 21...We also applaud the legislature for acknowledging the right of court clerks to deduct 5 percent service fees from child support payments, regardless of whether the amount of payment is less than ordered by the courts. The statute clarification was necessary to complement a forthcoming statewide child support network.

...Tears

Two former employees of our Traffic Violations Bureau passed away within two days of each other late last month. We extend our deepest sympathy to family and friends of Jim Burnett and Henrietta Woody, both of whom were remembered with kindness by those who once shared work space with them during their 10 years of service. Mr. Burnett was 71. He died on May 21 following a bout with cancer. Mrs. Woody followed him in death two days later. While serving as a traffic docket clerk, she was known for her bubbly personality and sense of humor. Both shall be missed... We are also saddened by the death of Mrs. Mildred Lee Creech, grandmother of chief accounting clerk Jeff Parkinson. Mrs. Creech was 79 years of age at the time of death on May 23.