

RESOLUTION 140

WHEREAS, Missouri Revised State Statute Section 478.010 in pertinent part states, Except as provided in Section 25 of Article V of the Constitution of Missouri, the circuit judges of the various judicial circuits shall be elected at the general elections as herein provided and at the general election every six years thereafter; and

WHEREAS, Section 25 (a) of Article V of the Constitution of Missouri entitled, The Nonpartisan selection of judges—courts subject to plan—appointments to fill vacancies. Provides, whenever a vacancy shall occur in the office of judge of any of the following courts of this state, to wit: The supreme court, the court of appeals, or in the office of circuit or associate circuit judge within the city of St. Louis and Jackson County, (emphasis added) the governor shall fill such vacancy by appointing one of three persons possessing the qualifications for such office, who shall be nominated and whose names shall be submitted to the governor by a nonpartisan judicial commission established and organized as hereinafter provided; and

WHEREAS, Section 25 (b) of Article V of the Constitution of Missouri entitled, Adoption of plan in other circuits—petitions and elections—form of petition ballots. Provides at any general election the qualified voters of any judicial circuit outside of the city of St. Louis and Jackson County, (emphasis added) may by a majority of those voting on the question elect to have the circuit and associate circuit judges appointed by the governor in the manner provided for the appointment of judges to the courts designated in section 25(a), or, outside the city of St. Louis and Jackson County, to discontinue any such plan (emphasis added); and

WHEREAS, as such the Missouri Counties of the City of St. Louis and Jackson County (KCMO area) which are the two largest concentrations of African Americans in the State of Missouri , are the only counties that as of today's date of this Resolution, do not have the option of discontinuing the Alleged Nonpartisan selection of their Circuit Court Judges; and

WHEREAS, the writers of Missouri's first constitution set up a court system in which the governor appointed judges who were subject to confirmation by a majority vote of the state senate and then served for life and during the 1830s and 1840s, people in various parts of the country opposed the "elites" whom governors appointed. They urged for the direct election by the people of their judges to enhance their legitimacy because then they would be answerable to the people and in 1848 Missouri voters, changed the state's constitution to require judges to be elected rather than appointed. The first judges were elected under this new system in 1850; and

WHEREAS, in Missouri, business and civic leaders contended there were problems with partisan elections developed in the 1920s and 1930s. By 1940, a group of business and civic leaders, and lawyers successfully placed on the ballot an initiative petition by establishing the Missouri Nonpartisan Court Plan on the selection of judges on the Supreme Court, the Court of Appeals and the trial courts in Jackson County and St. Louis city and during the November 1940 election, voters statewide adopted the nonpartisan plan; and

WHEREAS, Under the nonpartisan court plan, person who meets certain requirements may apply for a judicial vacancy. From that pool of applicants, a commission (who are chosen thorough an underground ghost political process) consisting of citizens, attorneys and a judge selects three candidates for the judicial vacancy. The commission forwards these candidates' names to the governor (who is elected through a political process), who then selects a judge from among the three candidates; and

WHEREAS, Popular election of Circuit Court Judges in Missouri continues to this day in 110 of the state's 114 counties, which constitute 40 of the state's 45 judicial circuits. Voters choose these courts' judges in popular elections in which judges and judicial candidates alike are designated by their political party affiliation. The 4 counties that do not choose their judges in a popular election are the Counties of St. Louis

City, St. Louis County, Jackson County (KCMO Area), and XXXX County, three of the judicial circuits with the largest African American populations; and

WHEREAS, It has been said that the election of Judges is well-suited for the rural areas of Missouri, which are small enough so that the voters can get to know the judges and judicial candidates before they cast their votes. However it also has been said that Alleged Non Partisan Plan used for 3 Counties with large populations of African Americans is racially discriminatory and does not allow for the citizens to get to know their Judges; and the effect of this has been to diminish the public's trust and confidence in those Circuit Court Judges in the City of St. Louis who are appointed under the Alleged Non Partisan Plan; and

WHEREAS, Although the Missouri Bar for years has attempted to supply information regarding the St. Louis City Judges up for a retention vote, it has been the experience of the sponsor of this resolution for the past 26 years that many Citizens of the City of St. Louis know very little about the Circuit Court Judges of the City of St. Louis; and

WHEREAS, It has been the first-hand experience of the sponsor that a false narrative has permeated the discussion on the Alleged Non Partisan Plan used to appoint the Circuit Court Judges in the City of St. Louis claiming that said plan eradicated partisan politics from the process and eliminated the need of said candidates seeking Judicial nomination through this plan to seek political endorsements; and

WHEREAS, All Missouri State Circuit Court should be treated the same and ALL of the Circuit Court Judges should be accountable to the voters through the electoral process, through a nonpartisan ballot in the same manner as members of the St. Louis School Board members seek office; and

WHEREAS, Many State Statues are written as though ALL residents in ALL the Circuit Courts have the same opportunity to impact the selection of the Judges who preside over their criminal and civil cases. Therefore, we have State Laws such as Missouri Revised State Statute 565.006 which states in pertinent part, At any time before the commencement of the trial of a homicide offense, the defendant may, with the assent of the court, waive a trial by jury and agree to submit all issues in the case to the court, whose finding shall have the force and effect of a verdict of a jury. Such a waiver must include a waiver of a trial by jury of all issues and offenses charged in the case, including the punishment to be assessed and imposed if the defendant is found guilty.; and

WHEREAS, State Statute 565.006 was used by the defense attorney in the trial of former St. Louis City Policeman Jason Stockley who was on trial for murdering Anthony Lamar Smith to waive a trial by jury and agree to submit the issues to the court for what is known as a bench trial and Retiring Circuit Court Judge Timothy Wilson granted the request and then went on to render a not guilty verdict and as such the Citizens of the City of St. Louis did not get to weigh-in on electing their own Judge or having the defendant tried by a jury of his peers. Said results are patently unfair, blatantly paternalistic and clearly racist since such a result would only happen in 4 counties in the State of Missouri, three of which have large populations of the State of Missouri African American Citizens.

WHEREAS, In the wake of previous unjust outcomes and verdicts in which Police seem to be able to murder African American Citizens with impunity and now the Unjust Stockley Verdict and the tacit approval of a City Circuit Court Judge, Citizens of St. Louis have a low degree of satisfaction with the fairness, impartiality and ability of our court system to decide disputes independently of the influences of hidden politics or from the narrow concerns of special interest groups, have called for a change and want more local control of their City government which includes the Executive Branch-The Mayor and Police, the Judicial Branch-The Circuit Judges, and the Legislative Branch-The Board of Aldermen and that can only happen in the Judicial Branch with a change in the Missouri State Constitution allowing Circuit Court Judges to be elected in the City of St. Louis.

NOW THEREFORE IT BE RESOLVED THAT THIS HONORABLE BOARD OF ALDERMEN Direct the Intergovernmental Committee to convene a hearing for the purpose of how to best address the issue of amending the Missouri State Constitution so that the Citizens of St. Louis will have the same rights as the rest of the State of Missouri as it pertains to electing their own Circuit Court Judges.

BE IT FURTHER RESOLVED that the Board of Aldermen call upon the St. Louis City State Legislative Contingency to help with our pursuit of bestowing on the Citizens of St. Louis all of the same Constitutional Rights as those of the remainder of the State of Missouri.

Introduced on the 22nd day of September, 2017 by:

The Honorable Sharon Tyus, Alderwoman 1st Ward
The Honorable Samuel L. Moore, Alderman 4th Ward

Adopted this 22nd day of September, 2017 as attested by:

Board of Aldermen
Board of Aldermen

Lewis E. Reed
President, Board of Aldermen