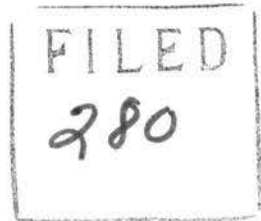


FEES: With respect to the distribution of
COURT COSTS: fees collected by the circuit clerk
CIRCUIT CLERKS: in civil and criminal cases under
the provisions of Sections 483.530,
483.540 and 483.541 (House Committee Substitute for Senate Bill
No. 496, 76th General Assembly, Second Regular Session) that:
(1) Fifty percent of the fees earned and collected under Sec-
tions 483.530 and 483.540 go to the county and fifty percent to
the director of revenue in the manner provided in Section 483.541;
(2) Section 483.530 excepts from charge and collection the fees
enumerated in such section in cases where the defendant is certi-
fied by the judge to be indigent and unable to pay; (3) Section
483.540 respecting fees in civil cases applies to juvenile court
proceedings. Such fees are taxed under Section 211.281, RSMo,
and whether collected from the county or from individuals fifty
percent is to be paid pursuant to Section 483.541 to the director
of revenue; (4) Section 483.540 respecting fees in civil cases
applies to Uniform Support cases. Such fees may be taxed under
Section 454.150, RSMo, and if collected from the county or from
individuals fifty percent is to be paid pursuant to Section 483.
541 to the director of revenue.

OPINION NO. 280

November 20, 1972

Honorable W. Clifton Banta, Jr.
Prosecuting Attorney
Mississippi County
Post Office Box 469
Charleston, Missouri



Dear Mr. Banta:

This opinion is in response to questions posed by you and
by the clerk of the circuit court of Mississippi County which we
paraphrase for the sake of brevity.

The first question asks when the clerk should make the dis-
tribution required under Section 483.541 (House Committee Substi-
tute for Senate Bill No. 496, 76th General Assembly, Second Regu-
lar Session).

Section 483.541 provides:

"1. It shall be the duty of the clerk of all
circuit courts and courts of common pleas of
this state with the approval of the judge of
the court to charge, on behalf of the state,

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fifty percent of every fee that accrues in his office by reason of sections 483.530 and 483.540, and to receive the same, and at the end of each month pay over to the director of revenue all such money collected by him as such fees, taking two receipts therefor, one of which he shall immediately file with the state treasurer, and shall at the end of each month make out an itemized and accurate list verified by affidavit of all fees collected by him, giving the name of the person or persons paying the same, and turn over the report to the director of revenue.

"2. On or before the thirty-first day of January of each year the circuit clerk shall file a verified report with the county treasurer or treasurer of the city of St. Louis, as the case may be, and with the director of revenue, showing all fees due and unpaid in his office in cases where the liability thereof has finally been established during the preceding year, showing the name of the person or persons owing same, and stating that he has been unable, after the exercise of diligence, to collect the same. The prosecuting attorney of the county or of the city of St. Louis shall collect such unpaid fees and shall deposit them with the circuit clerk, who will receipt him therefor, and the clerk shall forward the funds to the proper authority as is provided by law.

"3. All circuit court fees received by the director of revenue shall be deposited by him with the state treasurer in the 'Court Judicial Fund' which is hereby created; provided, that the treasurer shall deposit all moneys in excess of two hundred fifty thousand dollars in general revenue. The money in the court judicial fund shall be used for no other purpose than for the payment of salaries of the supreme court, districts of the court of appeals, and circuit judges and commissioners; provided, however, that such salaries shall be paid from the general revenue fund of the state whenever the balance in the court judicial fund or the appropriation from such fund is insufficient to pay the salaries."

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We previously held in Opinion No. 420, dated November 24, 1971, to Paden, copy enclosed, that the circuit clerk has authority to pay the costs of an action out of a cost deposit made by the plaintiff after the rendition of a default judgment in which the costs are taxed to a defendant against whom execution could not be levied. It is our interpretation of Section 483.541 that once the fees or any part thereof provided in Sections 483.530 and 483.540 (H.C.S.S.B. No. 496, 76th General Assembly, Second Regular Session) have accrued and been collected by the clerk, the distribution should be made monthly as therein provided. This means then that fifty percent of all such fees earned and collected by the clerk must be paid monthly to the director of revenue. The other fifty percent of such fees earned and collected must be paid to the county as provided in Sections 483.530 and 483.540.

Your second question asks how you should handle the fees in criminal cases provided for in Section 483.530 when the defendant is indigent. Section 483.530 provides:

"1. The clerks of the circuit courts, courts of criminal correction, and courts of common pleas of this state possessing criminal jurisdiction shall charge and collect, except in those cases where the defendant is certified by the judge of the court to be an indigent person and unable to pay the fees, the following fees:

For each criminal case \$15.00
For each appeal from municipal court for a
municipal ordinance violation. 15.00

Fifty percent of the fees collected by the clerk shall be paid into the county treasury, or in the case of the city of St. Louis into the city treasury, in the manner provided by law, and fifty percent shall be paid to the state director of revenue in the manner provided in section 483.541." (Emphasis added)

The provision that we have underscored above means that the clerk does not charge or collect such fees where the defendant is certified by the judge of the court to be an indigent person and unable to pay such fees.

Your third question asks how fees collected by the circuit clerk in juvenile cases should be handled. Juvenile cases are civil cases and Section 483.540 is applicable to such cases. Section 483.540 provides:

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"1. The clerks of the circuit courts and of the courts of common pleas, shall charge and collect in all civil proceedings the following fees to aid in defraying the expenses of judicial administration:

Each civil case instituted in that court. . .	\$25.00
Each additional summons issued for additional defendants	1.00
Each alias summons issued	1.00
Each pluralis summons issued.	1.00
Each third party defendant issued	1.00
Each appeal from municipal courts	20.00
Each appeal from magistrate courts.	20.00

In circuits where there is more than one section or division of the court, costs in any case shall be charged in only the division or divisions in which the case may be carried.

"2. Fifty percent of all fees collected shall be paid into the county treasury in the manner provided in section 483.560 or in the case of the city of St. Louis, paid into the city treasury in the manner provided in section 483.545, and the remaining fifty percent of the fees shall be paid to the director of revenue in the manner provided in section 483.541."

The liability for costs in juvenile cases is determined under the provisions of Section 211.281, RSMo, which provides:

"The costs of the proceedings in any case in the juvenile court may, in the discretion of the court be adjudged against the parents of the child involved or the informing witness as provided in section 211.081, as the case may be, and collected as provided by law. All costs not so collected shall be paid by the county."

Thus, if the fees are not collected from other persons adjudged to be liable they must be collected from the county. Under Section 483.541, half of the amount collected under Section 483.540 must be paid monthly to the director of revenue.

Your fourth question asks how fees collected by the circuit clerk are to be handled in Uniform Support cases. Section 454.150, RSMo, with respect to costs and fees in such cases, provides:

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"There shall be no filing fee or other costs taxable to the obligee [any person to whom a duty of support is owed and a state or political subdivision thereof, Section 545.020(7), RSMo] but a court of this state acting either as an initiating or responding state may in its discretion direct that any part of or all fees and costs incurred in this state, including without limitation by enumeration, fees for filing, service of process, seizure of property, and stenographic service of both plaintiff and defendant or either, be paid by the obligor [any person owning a duty of support, Section 454.020(8), RSMo] or the county."

Thus, if the fees established under Section 483.540 are charged against individuals, fifty percent is to go to the county under Section 483.540 and fifty percent to the director of revenue in the manner provided in Section 483.541, and if such fees are taxed against the county, then fifty percent of such fees are to go to the director of revenue as provided in Section 483.541.

Obviously, in either of the instances above, if such fees are the liability of the county, it is only necessary for the clerk to collect and disburse the fifty percent required to be paid to the director of revenue.

We also understand that the various circuit courts have different requirements respecting the deposit for costs in civil cases. However, we do not pass upon the right of such courts to require a deposit from everyone filing a lawsuit.

CONCLUSION

It is the opinion of this office with respect to the distribution of fees collected by the circuit clerk in civil and criminal cases under the provisions of Sections 483.530, 483.540 and 483.541 (House Committee Substitute for Senate Bill No. 496, 76th General Assembly, Second Regular Session) that:

(1) Fifty percent of the fees earned and collected under Sections 483.530 and 483.540 go to the county and fifty percent to the director of revenue in the manner provided in Section 483.541;

(2) Section 483.530 excepts from charge and collection the fees enumerated in such section in cases where the defendant is certified by the judge to be indigent and unable to pay;

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(3) Section 483.540 respecting fees in civil cases applies to juvenile court proceedings. Such fees are taxed under Section 211.281, RSMo, and whether collected from the county or from individuals fifty percent is to be paid pursuant to Section 483.541 to the director of revenue.

(4) Section 483.540 respecting fees in civil cases applies to Uniform Support cases. Such fees may be taxed under Section 454.150, RSMo, and if collected from the county or from individuals fifty percent is to be paid pursuant to Section 483.541 to the director of revenue.

The foregoing opinion, which I hereby approve, was prepared by my assistant, John C. Klaffenbach.

Very truly yours,

A handwritten signature in cursive script, appearing to read "John C. Danforth".

JOHN C. DANFORTH
Attorney General

Enclosure: Op. Ltr. No. 420
11/24/71, Paden