Mayor's Court

R.S. 33:441 – 457

Overview

The following summary provides general principles and guidelines concerning Mayor's Court. This document is presented in a "frequently asked questions" (FAQ) format. While the summary is fairly detailed, remember that every situation is unique and that each situation deserves careful individual review.

To facilitate your use of this document, links within the document will direct your attention to text within the document and to related documents posted on the Louisiana Legislative Auditor's website and on external websites. For example, clicking the question you wish to view in the Index section, will send you directly to the associated text. Within the FAQ, links will direct you to other text in the FAQ and to relevant external documents. If you click on the individual question number in the text, a link will return to the index to allow you to select another question to view.

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Mayor's Court FAQS

Q.1. What jurisdiction does a mayor's court have? R.S. 33:441(A)

A.1. A mayor's court is a municipal level court with **jurisdiction over all violations of municipal ordinances**. The presiding officer (mayor or an appointed magistrate) may impose fines or imprisonment, or both for violations of municipal ordinances. A mayor's court also has jurisdiction to collect utility debts within the municipality when the amount in dispute does not exceed $5,000.

Q.2. What are the basic requirements for mayor's court? R.S. 33:442

A.2. Mayor's court may be held at any time; however, many municipalities establish specific dates and times that mayor's court will be in session.

The presiding officer (mayor or appointed magistrate) shall keep a regular docket, on which he or she shall enter the causes arising under the ordinances to be tried. The presiding officer shall also maintain an accurate record of all cases tried.. The marshal/Chief of Police shall attend the court and serve its process and act as its executive officer.

AG Op. No. 97-0461 states that the mayor may delegate certain duties to the chief of police in regards to operation of the mayor's court. These duties are: preparation of the docket, traffic citation record retention, and collection of citation fines.

Q.3. Can the board of aldermen appoint a magistrate to preside over the mayor's court? R.S. 33:441(B)

A.3. Yes, the board of aldermen may, upon request of the mayor, appoint one or more attorneys who shall be designated as court magistrate and who shall serve at the pleasure of the mayor and may from time to time be designated by the mayor to serve in his or her stead as the presiding official over the mayor's court.

The board of aldermen shall fix and pay the salary of each magistrate, if any is appointed.

The provisions of R.S. 33:405(A) also authorize the mayor, in lieu of appointment of a magistrate, to provide written consent for the mayor pro tempore to preside over a mayor's court in their absence. AG Op. No. 17-0092A

Q.4. What power and authority does an appointed magistrate have when presiding over the mayor's court? R.S. 33:441(B)

A.4. A magistrate designated to preside over the mayor's court, has the powers and authority of the mayor over the court.

Q.5. **Does a presiding officer over mayor's court have judicial immunity?** R.S. 33:441(C)

A.5. Yes, the presiding officer (mayor or appointed magistrate) of a mayor's court shall be entitled to judicial immunity for official acts as presiding officer in the same capacity as a judge in this state.

Q.6. **May the presiding officer (mayor or appointed magistrate) impose court costs in addition to fines?** R.S. 33:441(A)

A.6. Yes, the presiding officer (mayor or appointed magistrate) may in addition to any fine mandated by ordinance impose on any defendant convicted of a violation of a municipal ordinance court costs not to exceed $30.00 for each offense as defined by ordinance. Additional court costs beyond the $30 amount are authorized by various statutes and may be assessed by the presiding officer upon conviction of the defendant. Some court costs are mandatory and may not be waived by the presiding officer, while others may be assessed at the discretion of the presiding officer.

Examples of authorized additional court costs include:

The presiding officer may impose additional court costs not to exceed twenty dollars for each offense, as defined by ordinance or traffic violation, on any defendant convicted of a violation of a municipal ordinance, provided that ten dollars of such additional court costs collected shall be remitted to the local public defender's office. R.S. 33:441(A)(2).

R.S. 13:86 imposes a mandatory fifty cent special court cost on all criminal convictions, including those convictions for violations of municipal ordinances in a mayor's court, in order to fund the Judicial College. All funds collected shall be deposited into a special account and transmitted monthly to the Louisiana Supreme Court in the manner and form specified by the Supreme Court.

Q.7. **How much flexibility does the presiding officer have regarding deposit of the court costs?**

A.7. The presiding officer (mayor or appointed magistrate) may authorize a portion of the costs assessed under R.S. 33:441 to be deposited in a special account and transmitted to the LA Association of Police Chiefs to be used for law enforcement education and training. If the statute authorizing the assessment of a specific court cost restricts the use of the funds, however, the presiding officer and the municipality may only use those particular funds in a manner as provided for by statute. (That is, if the statute mandates assessment of court costs for a particular

purpose or entity, the funds collected must be used for that particular purpose or transmitted to that designated entity.)

The fifty cent special court costs required by R.S. 13:86 shall be deposited in a special account and transmitted monthly to the Louisiana Supreme Court in the manner and form specified by the Supreme Court.

Q.8. Does the presiding officer have the authority to place a defendant on probation in lieu of a fine or imprisonment? R.S. 33:441(A)(2)

A.8. Yes, the presiding officer (mayor or appointed magistrate) may suspend the execution in whole or in part of a fine or imprisonment, or both, imposed for violation of a municipal ordinance. The presiding officer may place the defendant on unsupervised or supervised probation with such conditions as the presiding officer may fix and, at any time during the probation, modify, add, or discharge the defendant.

The probation shall be for a period up to one year as specified by the presiding officer. The presiding officer may terminate or revoke the probation at any time. At the termination of the probation, the presiding officer may set the conviction aside and dismiss the prosecution.

The presiding officer may not, however, suspend imposition of any court costs whose collections are mandated by statute upon a conviction.

Q.9. Can the presiding officer suspend the sentence if the defendant has been convicted of violation of a municipal ordinance? R.S. 33:441(A)(3)

A.9. Yes, notwithstanding any other provision of law, when a defendant has been convicted of violation of a municipal ordinance, the presiding officer (mayor or appointed magistrate) may suspend the imposition or the execution of the whole or any part of the sentence and place the defendant on unsupervised probation with whatever conditions the presiding officer may fix.

This suspension of sentence and probation shall be for a period of six months or a shorter period as the presiding officer may specify. But, in no case shall the probationary period imposed exceed the maximum penalty of imprisonment that may be imposed for violation of a particular ordinance.

Q.10. Does the presiding officer of a mayor's court have the authority to change a moving violation to a non-moving violation?

A.10. No, AG Op. No. 06-0075 states that absent express written authority in the ordinances, the presiding officer of the mayor's court may not reduce a moving violation (speeding) to a non-moving violation (driving without an inspection

sticker) or any other charge. According to AG Op. No. 11-0129, the authority to reduce or amend charges is a prosecutorial power and, absent an ordinance to the contrary, belongs solely to the prosecutor for the mayor's court.

Q.11. Does the board of aldermen have the authority to appoint a prosecutor for the mayor's court? **R.S. 33:441**

A.11. Yes, the board of aldermen in its discretion may, upon request of the mayor, appoint one or more attorneys designated as prosecutor who shall serve at the pleasure of the mayor.

The board of aldermen shall fix and pay the salary of each prosecutor, if any is appointed.

Q.12. May the mayor remove the appointed prosecutor or magistrate without approval of the board of aldermen?

A.12. Yes, according to R.S. 33:441, the appointed prosecutor or magistrate serves at the pleasure of the mayor and may be removed by the mayor without approval from the board of aldermen. AG Op. No. 16-0005, AG Op. No. 00-0157 and AG Op. No. 93-0313A.

A municipality operating under a home-rule charter should consult the provisions of their charter.

Q.13. What legislative powers does the board of aldermen have regarding fines in ordinances? **R.S. 33:362**

A.13. The board of aldermen may enact ordinances and enforce them by a fine not to exceed $500.00, or imprisonment not to exceed 60 days, or both.

Q.14. What is the process for the collection and disposition of fines, forfeitures, penalties and costs? **R.S. 13:1898**

A.14. Mayor's courts shall collect all fines, forfeitures, penalties and costs, and all funds collected, excluding costs, shall be paid into the city treasury when the prosecution is on behalf of the city and into the parish treasury to be deposited into the parish general fund when the prosecution is on behalf of the parish or the state.

If payment is made with a credit card or electronic check, the mayor's court may collect a processing fee not to exceed 5% of the amount of taxes and any penalties or interest being paid. The fee is in addition to the amount of fines, forfeitures, penalties and costs.

Q.15. What are some best practices for conducting a mayor's court?

A.15. The LLA recommends that mayor's courts should:

- Be conducted in a manner that will ensure access by the parties
- Preserve a complete and accurate record of the decisions rendered by the court
- Formally convene before consideration of the court's business (hearing testimony from defendants or witnesses, taking evidence, rendering decisions, etc.)
- Be conducted at a regularly scheduled location and time
- Document lack of sufficient evidence in order to support a decision to dismiss.

Q.16. Where can I find additional online information regarding operation of a mayor's court?

A.16. The LLA has posted Lawrason Act FAQs and Traffic Citations FAQs on our legal assistance page, and the Louisiana Municipal Association has posted a Mayor's Court Handbook on its website.

Lawrason Act FAQs **Traffic Citations FAQs**
LMA Handbook

Q.17. Is there any mandated training for mayors or magistrates who preside over mayor's courts? **R.S. 33:441(D)**

A.17. Yes. Every mayor or magistrate presiding over a mayor's court shall receive training within ninety days of assuming status as presiding authority of the mayor's court. The training shall be provided by the Louisiana Supreme Court, and shall include ethics and training on judicial and legal procedures related to mayor's courts.

The Legislative Auditor shall verify attendance at this training and assist the Supreme Court in providing the training.

Following completion of the initial training requirements, presiding mayors and magistrates shall receive, each year, continuing education as prescribed by the Louisiana Supreme Court.

Attorney General Opinions:

AG Op. No. 23-0068: A Mayor's Court may punish a defendant's failure to appear through contempt of court proceedings. Willful failure, after notice to appear, is a direct contempt and no trial is required. However, La. C.Cr.P. art. 22 requires that before a court can determine the defendant has committed a direct contempt, the defendant must be given an opportunity to be heard so that he can offer the court a defense or explain other mitigating circumstances. This can take place in a separate hearing solely for the contempt charge or it may take place at the hearing on the initial offense. If found guilty, the court can then render an order laying out the facts constituting the contempt, adjudging the person guilty thereof, and specifying the punishment as well as the fines or costs to be imposed. La. C.Cr.P art. 25 allows a fine of no more than $500 or imprisonment not to exceed 6 months, or both. As to the fines collected, R.S. 13:1898(A) provides that the clerk of the mayor's court "shall collect all fines, forfeitures, penalties, and costs, and all funds collected, excluding costs, shall be paid to the city treasury when the prosecution is on behalf of the city." Therefore, a fine assessed for failure to appear should be deposited into the Town's general fund; however, bail may not be deposited into the general fund absent a judgment of bond forfeiture.

AG Op. No. 22-0042: The Board of Alderman may appoint one or more attorneys as the prosecutor for the Mayor's court and may fix and pay their salaries pursuant to R.S. 33:441(B)(2). When no prosecutor has been appointed, R.S. 33:386 authorizes the mayor to direct the municipal attorney to perform prosecutorial duties in Mayor's Court and represent the municipality in a District Court appeal from the Mayor's Court.

AG Op. No. 17-0092A: Under the provision of R.S. 33:405(A), the mayor pro tempore may in the absence of the appointment of a magistrate and with written consent of the mayor preside over a mayor's court in the mayor's absence. Recalls prior Opinion 17-0092

AG Op. No. 16-0005: A mayor may declare the office of Court Magistrate vacant at any time. The Dual Officeholding and Dual Employment Law, R.S. 42:61, et seq., does not prohibit an assistant public defender or a part-time assistant district attorney from holding the office of Court Magistrate for a Mayor's Court.

AG Op. No. 15-0110: Absent the establishment of a mayor's court, a municipality may not accept payments for violation of municipal traffic ordinances. Payments received from such violations must be deposited with the District Court and disposed of pursuant to R.S. 15:571.11(2).

AG Op. No. 14-0202: Neither Section 15(A) nor Section 20 of Article V of the 1974 Louisiana Constitution prohibits the Legislature from enacting laws establishing new mayor's courts. Recalls prior opinions to the contrary.

AG Op. No. 11-0129: It is the opinion of this office that the magistrate of the mayor's court may not reduce a moving violation to a nonmoving violation. Rather, the authority to reduce a moving violation to a nonmoving violation rests with the town attorney, appointed pursuant to La. R.S. 33:404(A)(3), who serves as prosecutor in the mayor's court. The prosecuting attorney is the only person who may amend a criminal charge. *See* AG Op. No. 06-0075. **La. R.S. 33:441** governs mayor's courts and provides that "there shall be a mayor's court in the municipality, with jurisdiction over violations of municipal ordinances." Because La. R.S. 33:441(A)(1) limits the jurisdiction of the mayor's court to violations of municipal ordinances, a mayor's court has no jurisdiction over traffic violations charged under state law and the Louisiana Highway Regulatory Act, La. R.S. 32:1 -1801.

AG Op. No. 06-0008: Discusses duties and responsibilities of mayor, board of aldermen, and chief of police relative to mayor's court and traffic citations.

AG Op. No. 00-0197: Mayor's courts have jurisdiction to conduct trials, determine guilt, and impose sentences including fines and imprisonment for breach of municipal ordinances. Mayor's courts may impose penalties for breach of municipal ordinances if the fine does not exceed $500.00, or by imprisonment by not more than sixty days, or both. (Also see **AG Op. No. 05-0029**)

AG Op. No. 97-0118: Concerns legality of proposed compensation to mayor and clerk of mayor's court with monies collected from fines imposed in mayor's court. References AG Op. Nov. 22, 1972, which states:

> **A mayor may not constitutionally sit as a judge of a mayor's court if a substantial part of the municipality's income is derived from fines, forfeitures, fees, and costs imposed by the mayor's court and the mayor's power and responsibility in financial matters is great enough to warrant an inference that he cannot be considered an impartial judge and might be tempted to maintain the high level of income contribution from this source. AG Op. Nov. 22, 1972.**

AG Op. No. 01-0116: Discusses mayor's court and provides:

- A mayor's court may be abolished by an act of the legislature.
- The mayor holds the same position as a city court judge concerning the disposition of traffic tickets.
- Thus, no DWI citations may be disposed of in a mayor's court. In general, the Mayor's court jurisdiction is limited to municipal violations. No other state or parish violations are within that court's authority.