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Chapter V - Court System

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Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Chapter V - Court System

General Sessions Court

Private Acts of 1947 Chapter 210

SECTION 1. That there is hereby established a Court in and for McMinn County, Tennessee, which shall be designated "Court of General Sessions of McMinn County, Tennessee." Said county shall provide a courtroom and office space in the courthouse in Athens, together with dockets, furnishings and necessary supplies required for the holding of such court the same to be paid for out of the general funds of said county.

As amended by: Private Acts of 1949, Chapter 204
Private Acts of 1974, Chapter 270

SECTION 2. That said Court of General Sessions is hereby vested with all the jurisdiction and shall exercise the authority conferred upon Justices of the Peace in civil and criminal causes and actions, Justices of the Peace in counties to which this Act applies may issue all civil and criminal process falling within the jurisdiction of Justices of the Peace under General Statutes but no such process when issued by a Justice shall be returnable to any Court other than the Court of General Sessions herein created; and such Justices shall be allowed their costs for the issuance of such criminal and civil process but no further costs in connection therewith provided that the authority of said Justices of the Peace in their capacity as members of the Quarterly Court or in the performance of the rites of matrimony is in no wise affected by this Act.

As amended by: Private Acts of 1949, Chapter 204

SECTION 3. That before the commencement of any civil action in said Court, the plaintiff shall be required to secure the costs by executing a cost bond with good and sufficient security in the penalty of not less than Twenty-five Dollars (\$25.00), or making a cash deposit of not less than Three Dollars (\$3.00), as may be deemed proper by the Judge or Clerk of said Court, or in lien thereof, take and file the oath prescribed for poor persons, in accordance with the laws of this State; provided, that the Court, on motion of the defendant, or its own motion, may have the amount of any such bond or cash deposit increased; and in case of the issuance of extraordinary process, such bond shall conform to the general statutes of this State.

SECTION 4. That the rules of pleading and practice, forms of writs and process and stays of an appeal from judgments in civil cases in said Court shall be the same as now or hereafter provided by the general statutes for Courts of Justice of the Peace.

SECTION 5. That said Court is hereby vested with jurisdiction to try and determine and render final judgment in all misdemeanor cases brought before said Court by warrant or information wherein the persons charged with such misdemeanor offenses enters a plea of guilty or requests trial upon the merits, and expressly waives an indictment, presentment and Grand Jury investigation, and a jury trial. In such cases the trial shall proceed before the Judge without a jury. The final judgment of such Court may be appealed to the Criminal Court of McMinn County, where such appeal shall be tried by the Judge of such Court without a jury, and without indictment or presentment.

That the said Court in addition shall have exclusive jurisdiction and powers with respect to the probate of wills and administration of estates as now exercised by the County Court of McMinn County, Tennessee, which is hereby divested of such jurisdiction, but this provision shall not affect or impair the powers and functions of the County Chairman of McMinn County in other respects. The procedure, rules or practice, and laws governing the Probate jurisdiction of said Court shall be in accordance with the General Laws of the State of Tennessee relating thereto, and in accordance with all reasonable rules of Court which the said Judge is hereby empowered to make.

As amended by: Private Acts of 1957, Chapter 1946
Private Acts of 1974, Chapter 270

SECTION 6. That it shall be the mandatory duty of the Judge of said Court of General Sessions when a defendant is brought before such Court upon arraignment or trial, to advise such defendant of his constitutional right to the aid of counsel, the right to be tried only upon presentment or indictment by a Grand Jury, the right to make a statement with reference to the accusation or the right to waive such statement, and the right to a trial by jury. Upon the defendant agreeing in writing to waive the right to be tried by a jury, such Court may proceed to hear and determine the case as provided in Section 5 hereof.

Said waiver shall be written or attached to the warrant substantially in the following words:

"The defendant, _____ pleads _____ guilty to the offense of

_____ and waives his right to be tried only by indictment or presentment preferred by a Grand Jury, and likewise waives trial by a jury."

SECTION 7. That in all matters the costs and fees of said Court of General Sessions shall be the same as those provided by law for Justices of the Peace. The fees and compensation of the Sheriff, his Deputies, Game Wardens, State Highway Patrolmen, and other officers, for services to said Court, and the fines and forfeitures adjudged by it shall be handled, accounted for and disbursed, as required by law.

SECTION 8. That separate dockets shall be kept in said Court for civil and criminal cases. Upon the civil docket shall be entered the number and style of each case, the date of issuance of the warrant or process, and the return of the process, in brief form, action of the Court on the case, both interlocutory and final orders, judgments, executions, garnishments, list of fees of the Clerk, Sheriff, Deputies, Constables, Game Wardens and State Highway Patrolmen for their services, fees of witnesses for attendance and mileage, and credits for payments upon judgments and upon the costs. All cases shall be indexed and the dockets shall be substantially in the form of those of Justices of the Peace. The criminal docket shall be kept in a like manner.

SECTION 9. That there shall be one judge of said court and that said judge shall be an attorney who is licensed to practice law in the courts of this state. The oath of said judge shall be the same as that prescribed for Circuit Judges and Chancellors.

As amended by: Private Acts of 1974, Chapter 270

SECTION 10. That the compensation of said judge shall be seventeen thousand five hundred dollars (\$17,500.00) per annum, payable in equal monthly installments and shall be paid out of the general funds of said county. Such Judge may practice his profession in other Courts of the State, except in the Courts of McMinn County, so long as it does not interfere with his duties as Judge of the Court of General Sessions. Such Judge shall devote such time as is necessary for the performance of his duties and shall not give advice nor render any legal service in connection with any matter coming within the jurisdiction of his Court.

As amended by: Private Acts of 1949, Chapter 204
Private Acts of 1974, Chapter 270

COMPILER'S NOTE: See Tennessee Code Annotated, Section 16-15-5003, which establishes the minimum compensation amounts for General Session Judges.

SECTION 11. That for the purpose of carrying out the provisions of this Act, Frank K. Boyd, of Athens, Tennessee, is hereby appointed Judge of the Court of General Sessions of McMinn County, Tennessee, to serve until September 1, 1948, and until his successor has been elected and qualified.

His successor shall be elected by the qualified voters of said County at the election for other County officers on the first Thursday of August, 1948, and shall hold said office for the unexpired term of two years, and his successors shall be elected every eight years thereafter.

SECTION 12. That if the Judge of said Court fails to attend, cannot preside in a pending cause, or for other reason hold Court, a majority of the attorneys present in said Court may elect one of their number to hold said Court during the absence of the regular Judge, and when elected shall have the same power and authority as the regular Judge.

SECTION 13. That in case of a vacancy in the office of Judge of said Court, the Governor shall have the power to fill such vacancy by appointment of a person possessing the qualifications thereof, as prescribed in Section 9 of this Act, to serve until the next regular election for County officers.

SECTION 14. The Chancery Court for McMinn County is hereby designated probate court of McMinn County. The Clerk and Master for McMinn County is hereby granted all statutory powers when Chancery Court is exercising probate jurisdiction. Effective July 1, 2004, the books, records, accounts, papers and documents pertaining to probate matters shall be filed with the Clerk and Master who shall have and perform the statutory functions with respect to probate jurisdiction from that date forward.

The General Sessions Court shall retain probate jurisdiction over all probate matters pending in that court on June 30, 2004, until their conclusion.

As amended by: Private Acts of 1957, Chapter 46
Private Acts of 2004, Chapter 107

SECTION 15. That the Sheriff of said County, or any Deputy Sheriff or Constable thereof, shall be authorized and empowered to serve all process issued by said Court with the same authority as provided by law in other inferior Courts.

SECTION 16. That this Act shall in no wise impair the right, title or interest of any Justice of the Peace of said County to any unpaid fees, or funds or suit whether said cause is disposed of or pending when this Act becomes effective.

SECTION 17. That all of the official dockets, records and papers in cases that are undisposed of or pending in the offices of Justices of the Peace of said County at the time this Act becomes effective shall be delivered to the Court of General Sessions. The official dockets, records, and papers in possession of Justices of the Peace in cases which have been completed shall be turned over to said County, as provided by law.

SECTION 18. That said Court shall hear and determine all undisposed of cases arising in the Courts of Justices of the Peace of said County as if such cases had originated in said Court of General Sessions.

SECTION 19. That there is conferred upon this Court original, exclusive jurisdiction of all cases coming within the terms of Part III, Title 8, Code of Tennessee of 1932, Sections 10269 through 10309, as amended, the subject of the title being "Juvenile Courts". The Judge of the Court of General Sessions shall perform all the duties and shall be vested with the jurisdiction, power and authority prescribed in said title. The Clerk of the Court of General Sessions shall perform the duties of Clerk of the Juvenile Court, and shall keep and maintain such dockets and records as are prescribed in said title.

SECTION 20. That there is conferred upon the Judge of the Court of General Sessions the power and authority to grant fiats for the issuance of injunctions, attachments and other extraordinary process, as that conferred upon Judges and Chancellors in this State.

SECTION 21. That the Legislature declares that each section, subsection, paragraph and provision of this Act is severable, and that should any portion of this Act be held unconstitutional or invalid, the same shall not affect the remainder of this Act, but such unconstitutional or invalid portion shall be elided, and the Legislature declares that it would have enacted this Act with such unconstitutional or invalid portions elided therefrom.

SECTION 22. That all Acts or parts of Acts in conflict with the provisions of this Act be, and the same are, hereby repealed.

SECTION 23. That this Act take effect from and after its passage, the public welfare requiring it.

Passed: February 7, 1947.

Court System - Historical Notes

Board of Jury Commissioners - Jurors

1. Acts of 1905, Chapter 235, created a Board of Jury Commissioners in McMinn County. Qualifications for the commissioners included the following: A resident of the county; a householder and freeholder of the county; practicing attorneys were prohibited from service as well as state or county officers; and eligible individuals must be free from suit. Furthermore, the circuit court judge appointed Jury Commissioners. Likewise, only a maximum of two commissioners could belong to the same political party. Terms of office for Commissioners were six (6) years, and vacancies were filled in the same manner as original appointments. The jury roll contained a minimum of 250 to a maximum of 1,500 names. The jury roll was compiled by the Jury Commissioners and was effective for two (2) years. Prospective jurors were selected by lottery not less than ten (10) nor more than fifteen (15) days before the term of the Circuit Court. The lottery was conducted by the Jury Commissioners and afterwards they delivered the list of prospective jurors to the sheriff five (5) days before the term of the Circuit Court for serving summons.
2. Private Acts of 1921, Chapter 11, amended the above Board of Jury Commissioners. The Sheriff's fee was increased to twenty-five cents for summons delivered to jurors. The fee was disbursed from the County Treasury.
3. Private Acts of 1925, Chapter 521, created a Board of Jury Commissioners identified by the 1920 Federal Census. Three members were jointly appointed to four year terms by the Circuit and Criminal Judges. Membership qualifications included no pending suits, no practicing attorneys, no state or county officers. Furthermore, qualifications required that eligible individuals be freeholders, householders, and residents of the county; and not more than two could belong to the same political party. Vacancies were filled in the same manner as original appointments. Another requirement was an oath of office to perform assigned duties. Meetings were held in the Circuit Court Clerk's office on the first Monday in May, 1925 and on the first Monday every two years afterwards. A list of prospective jurors was selected from tax books and other sources. The list contained from 400-800 individuals and was effective for two years. Once the jury list was selected by the Commissioners, jurors were chosen by lottery.
4. Private Acts of 1931, Chapter 556, created a Board of Jury Commissioners in McMinn County,

identified by the 1930 Federal Census. The provision was similar to the Private Acts of 1925, Chapter 521, referenced above. This act was amended by Private Acts of 1955, Chapter 233. See Baker v. State, 191 Tenn. 560, 235 S.W.2d 435 (1951).

5. Private Acts of 1955, Chapter 232, created a Board of Jury Commissioners in McMinn County. A jury roll of not less than 400 names was maintained. At least twenty (20) days before the term of the criminal or circuit court forty (40) names were selected by lottery from the jury roll. Next, the jury list selected by lottery was delivered to the sheriff ten (10) days prior to the beginning term of the court for delivery of summons to prospective jurors.
6. Private Acts of 1961, Chapter 179, increased the compensation of jurors to eight dollars (\$8.00) per day and ten cents (10¢) per mile for any juror living more than five (5) miles from Athens.
7. Private Acts of 1975, Chapter 134, was rejected and disapproved by the proper authorities of McMinn County and therefore never became a law under the Home Rule Amendment to the Constitution. The Act provided for the Foreman of the Grand Jury in McMinn County to be paid \$20 for each day served as such, and all members of the Grand Jury other than the foreman were to be paid \$15 for each day served. This Act was to have no effect on any mileage allowance now being paid to jurors under the law.

Chancery Court

The following acts form an outline of the development of equity jurisdiction in McMinn County, although they no longer have the force of law since they have either been superseded by general law, repealed, or failed to receive local ratification.

1. Public Acts of 1827, Chapter 88, allowed the chancellor for the Eastern district to hold court biannually at Kingston for the counties of Knox, Blount, Anderson, Morgan, Roane, Rhea, Hamilton, Campbell, Monroe and McMinn.
2. Acts of 1837-38, Chapter 116, provided that Chancery Court terms would begin on the second Mondays of April, August and December.
3. Acts of 1843-44, Chapter 201, established a separate chancery district in the County of McMinn and provided that this court would be held on the first Mondays in March and September of each year.
4. Acts of 1853-54, Chapter 54, placed Blount, Roane, Monroe, McMinn, Polk, Bradley, Rhea, Hamilton, Bledsoe, Marion, Overton and White Counties in the Fifth Chancery Division of the state.
5. Acts of 1871, Chapter 56, provided that McMinn and Monroe Counties would constitute one chancery division and that court would be held in Athens.
6. Private Acts of 1911, Chapter 435, divided the Third Chancery Division, placing McMinn County in the Twelfth Chancery Division, where it remains today.
7. Private Acts of 1915, Chapter 181, set the time for holding Chancery Court in McMinn County on the second Mondays in January and July.
8. Private Acts of 1923, Chapter 394, set the times for holding Chancery Court in McMinn County on the fourth Mondays in March and September.
9. Public Acts of 1953, Chapter 140, set the times for holding Chancery Court in McMinn County on the third Mondays in August and February of each year.

Chancery Court - Clerk and Master

The reference list below contains acts which once applied to the clerk and master in McMinn County.

1. Private Acts of 1915, Chapter 696, made women over the age of twenty-one eligible to be deputy clerks and masters.
2. Private Acts of 1933, Chapter 863, set the salary of the clerk and master at \$3,000 per annum.
3. Private Acts of 1935, Chapter 47, provided for the appointment of one deputy clerk and master at a monthly salary of \$75 to be paid from the county general fund.

Circuit Court

The following acts were once applicable to the circuit court of McMinn County but now have no effect, having been repealed, superseded, or having failed to win local approval.

1. Acts of 1821, Chapter 92, provided that the Circuit Court in McMinn would be held in "such house in the town of Calhoun as may best suit the county."
2. Acts of 1837-38, Chapter 116, provided that the Circuit Court in McMinn County would be held on the second Mondays in April, August and December.

3. Acts of 1903, Chapter 354, also provided that Circuit Court in McMinn County would be held on the second Mondays of April, August and December.
4. Private Acts of 1923, Chapter 537, changed the time for holding Circuit Court to the first Mondays in March, July and November.
5. Private Acts of 1925, Chapter 58, was the act which first established a separate criminal court for McMinn and other counties in the Fourth Judicial Circuit.
6. Public Acts of 1971, Chapter 347, changed the times for holding the Circuit Court for the Twenty-Fourth Judicial Circuit (McMinn County) to the first Mondays in February, July, September and November.
7. Public Acts of 1974, Chapter 686, created a new judicial circuit consisting of Bradley County to provide for transfer of cases from the Twenty-Fourth Judicial Circuit (McMinn County) to the new judicial circuit. Circuit Court for the twenty-fourth judicial circuit would meet on the first Mondays in February, July, September and November.

Circuit Court - Clerk

The following acts have no current effect, but once applied to the McMinn County Circuit Court Clerk. They were repealed, superseded, or never received local approval.

1. Acts of 1823, Chapter 68, directed the McMinn County Circuit Court Clerk to move his records from Calhoun to Athens by the third Monday of April, 1823.
2. Acts of 1829-30, Chapter 90, authorized the Circuit Court Clerk, Samuel M. Gnatt, to build at his own expense an office in front of his house on the public square in Athens.
3. Acts of 1857-58, Chapter 112, directed the Comptroller of the Treasury to issue a warrant for the amount of \$120 for the benefit of McMinn County, to supply the Court Reports which were burned in the fire at the Circuit Court Clerk's office in Athens in 1853.
4. Private Acts of 1923, Chapter 297, set the annual salary of the Circuit Court Clerk at \$1,500.

Criminal Court

The following acts once pertained to the McMinn County Criminal Court, but are no longer current law.

1. Private Acts of 1925, Chapter 58, created the Criminal Court Division of the Fourth Judicial Circuit.
2. Public Acts of 1931, (2nd Ex. Sess.), Chapter 38, the complete turnover of the lower court system in Tennessee, assigned the counties of Roane, Loudon, Blount, McMinn, Polk, Monroe and Bradley to the Criminal Division of the Fourth Judicial Circuit and set the opening dates of the Court in Cleveland in Bradley County on the third Monday in February, June and October.
3. Public Acts of 1965, Chapter 188, assigned the counties of Bradley, McMinn, Monroe and Polk to the Criminal Court Division of the Twenty-fourth Judicial Circuit.

District Attorney General - Assistants and Criminal Investigators

The following acts once affecting McMinn County are no longer in effect but are listed here for historical purposes. Also referenced below is an act which repeals prior law without providing new substantive provisions.

1. Public Acts of 1939, Chapter 228, created the position of Criminal Investigator for the Fourth Judicial Circuit who would be a resident of the circuit, an attorney, and over 21 years of age. The Governor would appoint the first Investigator and the Criminal Court Judge would appoint one every two years thereafter. The salary was fixed at \$1,200 per year. This Act was repealed by Public Acts of 1965, Chapter 189.
2. Public Acts of 1965, Chapter 188, empowered the District Attorney General of the Twenty-fourth Judicial Circuit to appoint two (2) suitable persons as Assistant Attorney's General, or one (1) Assistant District Attorney General and one (1) Criminal Investigator.
3. Public Acts of 1967, Chapter 385, created the office of an additional Assistant District Attorney General for the Twenty-fourth Judicial Circuit.
4. Public Acts of 1977, Chapter 356, created an additional office of Criminal Investigator for the District Attorney General of the Twenty-fourth Judicial Circuit.

Secretarial Assistance

The following act is no longer in effect but is listed here for historical purposes.

1. Public Acts of 1963, Chapter 231, provided for a secretary for the judge of the Fourth Judicial Circuit.

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