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# General Sessions, Probate, and Juvenile Courts

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

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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# General Sessions, Probate, and Juvenile Courts

## Private Acts of 1974 Chapter 344

**COMPILER'S NOTE:** Tennessee Code Annotated Section 37-1-101(c) provides that Private Acts establishing juvenile courts are repealed to the extent that they are inconsistent with the Tennessee Code Annotated provisions. Tennessee Code Annotated Section 16-16-102 provides that Private Acts establishing courts of probate jurisdiction are repealed to the extent that they are inconsistent with some positive provision of Tennessee Code Annotated.

**SECTION 1.** a. That there is hereby created a General Session, Probate and Juvenile Court in and for Marshall County, Tennessee. When exercising the jurisdiction conferred upon the General Sessions Court, the Court shall be designated the General Sessions Court of Marshall County, Tennessee; when exercising the jurisdiction conferred upon the Probate Court the Court shall be designated the Probate Court of Marshall County, Tennessee; and when exercising the jurisdiction conferred upon the Juvenile Court the Court shall be designated the Juvenile Court of Marshall County, Tennessee. When the term "Court" is used herein without qualification it shall, unless the context requires otherwise, refer to the Court herein created when acting as General Sessions Court, Probate Court, or Juvenile Court.

Marshall County, Tennessee, shall provide a court room in the Town of Lewisburg, Tennessee, dockets, furnishings and necessary supplies for the equipment and maintenance of said Court, and pay for the same out of the general funds of said County.

b. Notwithstanding the foregoing, effective on the first day of April, 1997, the Probate Court of Marshall County shall cease to exist as a separate court and the jurisdiction of the Probate Court of Marshall County shall be transferred to the Chancery Court of Marshall County.

As amended by: Private Acts of 1996, Chapter 144

**SECTION 2.** That

a. The General Sessions Court is vested with all of the jurisdiction and shall exercise all of the authority conferred upon Justices of the Peace, upon the Court of General Sessions of Marshall County, Tennessee, and now or hereafter conferred upon Courts of General Sessions by general law, in civil and criminal cases, suits and actions; and the Justices of the Peace of said County are hereby divested of all such jurisdiction and authority, but any Justice of the Peace of said County may issue criminal and search warrants against and accept appearance bonds from any person charged with an offense committed in the district for which such Justice of the Peace was elected, but all process issued by Justices of the Peace shall be returnable to the General Sessions Court of Marshall County, Tennessee. The authority of said Justices of the Peace of said County in their capacity as members of the Quarterly County Court, or in the performance of the rites of matrimony, is in no wise affected by this Act.

Said General Sessions Court shall also have jurisdiction, concurrent with the Circuit and Chancery Court, of all civil actions, legal and equitable, in which the amount in controversy does not exceed the sum of Five Thousand Dollars (\$5,000.00), exclusive of interest and costs.

b. Before the issuance of any warrant in any civil case, the plaintiff shall secure the costs by executing a cost bond with good security in a sum not less than Twenty-five Dollars (\$25.00), or by making a cash cost deposit of not less than Five Dollars (\$5.00) or more than Twenty-five Dollars (\$25.00), or shall take the oath prescribed for poor persons, and on motion, the Court may increase the amount of such bond or deposit.

c. The Rules of pleading and practice, forms a writs and process and stay of and appeals from judgments in civil cases of said General Sessions Court shall be the same as for Justices of the Peace, except where now or hereafter expressly provided to the contrary for Courts of General Sessions by general law, in which case said general law shall prevail.

d. In all matters the costs and fees of said General Sessions Court shall be the same as those provided for Justices of the Peace. The fees and other compensation of the Sheriff, his deputies, constables, game wardens and State highway patrolmen for the execution of writs and process of said General Sessions Court, and the attendance and mileage of witnesses shall be the same in said Court as those provided for the Courts of Justices of the Peace. The fees and compensation due for services rendered by said General Sessions Court shall be paid to the Clerk of said Court and by him accounted for as hereinafter provided. Said costs, fees, and mileage of witnesses, the fees, commissions and emoluments of the Sheriff, his deputies, constables, State highway patrolmen, game wardens 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.

e. When any defendant is brought before said General Sessions Court charged with any crime or misdemeanor, it shall be the mandatory duty of the Judge of said Court to inform said defendant of his constitutional rights, and to advise him as to his right to employ and be represented by counsel and his right to make a statement or decline to make any statement, and to aid said defendant, in so far as it is necessary and reasonable, in contracting counsel and relatives or friends, and in procuring the attendance of witnesses.

f. Separate dockets shall be kept in said General Sessions Court for civil and criminal cases. Upon the Civil Docket shall be entered the 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, lists of the fees of the Court, the Sheriff, his deputies, constables, game wardens and State highway patrolmen for their services, fees of witnesses for attendance, et cetera, and credits for payments upon judgment 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.

g. The Clerk of the Circuit Court of said County shall act as Clerk of said General Sessions Court, and when acting as Clerk of said General Sessions Court shall be designated "Clerk of the General Sessions Court of Marshall County, Tennessee". The fees, commissions and emoluments of said General Sessions Court shall accrue to said County. The Clerk of said General Sessions Court shall pay to said County monthly all fees, commissions and emoluments of said General Sessions Court, and the same shall become a part of the general funds of Marshall County, Tennessee. The Clerk of said General Sessions Court and his deputies shall have concurrent authority with the Judge thereof to issue warrants and other process and writs, other than those which the law requires shall be issued only by a judicial officer.

h. The Sheriff of said County, or any deputy sheriff or constable thereof, shall serve legal process, writs and papers issued from said Court with the same authority as provided by law in regard to Justices of the Peace Courts.

i. All of the official dockets, records, and papers in cases that are undisposed of or pending in the Court of General Sessions of Marshall County, Tennessee, shall be delivered to said General Sessions Court.

j. Said General Sessions Court shall have authority to hear, determine and render final judgement in all undisposed of cases originating in the Court of General Sessions of Marshall County, Tennessee, as if such cases had originated in said General Sessions Court.

**SECTION 3.** That the Probate Court shall have jurisdiction over all matters over which jurisdiction is now or hereafter vested in Probate Courts; and jurisdiction over all probate matters over which jurisdiction is now or hereafter vested in the County Court of Marshall County, Tennessee, including but not limited to jurisdiction vested in the County Court by Tennessee Code Annotated, Section 16-709 through 16-713, inclusive; and Tennessee Code Annotated, Sections 34-1008 and 34-1017, inclusive; and the County Court of Marshall County, Tennessee, is divested of the jurisdiction conferred upon the Probate Court. All matters over which the Probate Court has jurisdiction, now pending in the County Court, shall be concluded in the Probate Court.

**SECTION 4.** That Juvenile Court shall have jurisdiction over all matters over which jurisdiction is now or hereafter vested by law in Juvenile Courts; and all Juvenile matters over which jurisdiction is now or hereafter vested in the County Court of Marshall County, Tennessee, including but not limited to the jurisdiction conferred upon said County Court by Tennessee Code Annotated Sections 37-201 through 37-281, inclusive; and the County Court of Marshall County, Tennessee, is divested of said jurisdiction. All Juvenile matters now pending in the County Court of Marshall County, Tennessee, shall be concluded in the Juvenile Court.

**SECTION 5.** a. That the Clerk of the County Court of said County shall act as Clerk of the Probate and Juvenile Courts and when acting as Clerk of said Courts shall be designated "Clerk of the Probate and Juvenile Courts of Marshall County, Tennessee". The Clerk shall, at the expense of the County, acquire and maintain a seal containing the designation "Clerk of the Probate and Juvenile Courts of Marshall County, Tennessee;" and minute books and other necessary records for said Courts separate and apart from the minute books and records of the County Court. All fees and charges in said Court shall be the same as fees and charges in County Courts and shall be collected, accounted for and disbursed as all fees and charges in County Courts.

b. The county legislative body of Marshall County by resolution duly adopted, shall cause the transfer of the clerking duties of the county clerk which relate to the Probate Court of Marshall

County and the Juvenile Court of Marshall County in accordance with this subsection. The county legislative body shall transfer the clerking duties relating to the Probate Court from the County Clerk to the Clerk and Master when adequate space is available to accommodate this transfer, but not later than the first day of April, 1997, whereupon the clerking duties of the Clerk and Master relating to probate matters shall be conducted as part of Chancery Court jurisdiction in accordance with general law. The county legislative body shall transfer the clerking duties relating to the Juvenile Court from the County Clerk to the Circuit Court Clerk when adequate space is available to accommodate this transfer. When the Circuit Court is acting as clerk of the Juvenile Court, the Circuit Court Clerk shall be designated as the clerk of the Juvenile Court of Marshall County, Tennessee, and shall acquire and maintain a seal containing such designation.

The clerk of the Juvenile Court shall maintain records of this office separate from the other records maintained by the Circuit Court Clerk. Any less received by the Circuit Court Clerk when acting as clerk of the Juvenile Court shall be accounted for and disbursed as other fees of the Circuit Court Clerk.

As amended by: Private Acts of 1996, Chapter 144

**SECTION 6.** That the Court herein created shall have jurisdiction to punish for contempt, concurrent with Circuit and Chancery Courts.

**SECTION 7.** That there shall be one Judge for said Court, who shall be a duly and legally licensed lawyer, with not less than Three (3) years experience in the general practice of law, and with all the qualifications and the same term of office as provided by the Constitution for inferior Courts, and the oath shall be the same as that provided for Circuit Judges and Chancellors.

**SECTION 8.** That the compensation of the Judge of said Court shall be Twelve Thousand Dollars (\$12,000.00) per annum, payable in equal monthly installments out of the general funds of Marshall County, Tennessee.

**SECTION 9.** That the Judge of the Court herein created shall be elected at the election for Judicial officers in 1974, and thereafter as provided by the Constitution of the State of Tennessee for Judges of inferior Courts.

**SECTION 10.** That the Circuit Court of Marshall County, Tennessee, shall have jurisdiction to exercise, by appeal or otherwise, appellate review of all proceedings of the Court created by this Act.

**SECTION 11.** That if the Judge of the Court herein created fails to attend, can not preside in a pending case or can not for any reason hold Court, a majority of the attorneys present may elect one of their number who has the qualifications of such Judge, and when elected he shall take the same oath and have the same authority as the regular Judge of said Court, to hold the Court and perform all of the duties of said Judge for the occasion.

**SECTION 12.** That in the case of a vacancy for any cause, the Governor shall have the power to appoint some qualified person to fill such vacancy until the first day of September following the next biennial August election occurring more than Thirty (30) day after the vacancy occurs or until his successor is qualified.

**SECTION 13.** That this Act shall not be construed to prohibit the Judge of the Court herein created from practicing law; provided that he shall be prohibited from practicing law in any matter over which the Court may exercise jurisdiction.

**SECTION 14.** That Private Acts of Tennessee of 1945, Chapter No. 466, the caption of which is set forth in the caption hereof, as amended by the Private Acts of 1951, Chapter 286 and the Private Acts of 1957, Chapter 312 is repealed. The Private Acts of 1933, Chapter 170 as amended by the Private Acts of 1951, Chapter 285, the Private Acts of 1937, Chapter 354, the Private Acts of 1945, Chapter 151 and the Private Acts of 1949, Chapter 836 and all other Private Acts relating to Marshall County are repealed in so far as, but only in so far as, they conflict with the provisions of this Act.

**SECTION 15.** That this Act shall not take effect unless approved by a Two-thirds (2/3) vote of the Quarterly County Court of Marshall County, Tennessee, prior to the election for Judicial officers held in 1974.

**SECTION 16.** That each Section, subsection, paragraph, and provision of this Act is severable, and that should any portion of the Act be held unconstitutional or invalid, the same shall not effect the remainder of this Act, but such unconstitutional or invalid portion shall be elided, and the General Assembly declares that it would have enacted this Act with such unconstitutional or invalid portions elided therefrom.

**SECTION 17.** That this Act shall take effect on September 1, 1974; provided that the provisions hereof regarding the election of the first Judge of the Court shall take effect at the time of the election of Judicial officers in August of 1974, the public welfare requiring it.

Passed: March 25, 1974.

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