



County Technical Assistance Service  
INSTITUTE *for* PUBLIC SERVICE

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# Private Acts of 1941 Chapter 50

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Sincerely,

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# Private Acts of 1941 Chapter 50

**SECTION 1.** That there is hereby created and established a Court in and for Madison County, Tennessee, which shall be designated "Court of General Sessions of Madison County, Tennessee."

The Court of General Sessions of Madison County shall consist of two divisions. One such division shall be designated as "Division I" and the other division shall be designated as "Division II." There shall be two full-time judges of the court. One such judge shall preside over Division I, and the other such judge shall preside over Division II.

Court rooms and adequate facilities for the court and its judges shall be provided in the court house at Jackson or elsewhere in the city of Jackson; and it shall be the duty of the county executive to make provisions therefor, and to provide necessary dockets, furnishings, supplies and all necessary equipment for the proper maintenance of the court. The expenses of the court shall be paid from the general fund of the county.

As amended by: Private Acts of 1982, Chapter 243

**SECTION 2.** That the Court of General Sessions of Madison County is hereby vested with all jurisdiction and shall exercise the authority conferred by general law upon courts of general sessions in civil and criminal cases. The court shall also be vested with all jurisdiction, powers, duties, and authority relating to the probate of wills and the administration of estates and related matters. The court shall also be vested with all juvenile jurisdiction, and related powers, duties, and authority previously vested in the county judge or in any other local official pursuant to the provisions of any general or local act.

The court of general sessions is hereby expressly vested with the following jurisdiction and power: the power to appoint and remove conservators; the appointment and removal of guardians for minors and persons of unsound mind, and under the Uniform Guardianship Law and all controversies as to the rights of guardianships, and conservatorships and the settlement of conservator and guardian accounts; to have concurrent jurisdiction with chancery court to order the sale of personal or real property by guardians or conservators in the estates of minors, and incompetents and to order changing of names; and to have concurrent jurisdiction with the chancery court in the administration of insolvent estates and to authorize and approve the sale of real and personal property in order to pay debts and claims against decedent's estates.

The Court of General Sessions has concurrent jurisdiction with the Chancery Court of proceedings to set up lost wills; of proceedings for the construction of wills; of proceedings in all other cases involving probate jurisdiction not specifically set out in this act; and proceedings involving the partition and sale of real property. The Rules of Civil Procedure shall apply to all such proceedings.

The court of appeals shall have jurisdiction of all appeals from the decisions of the General Sessions Court, Division II (Probate Division) relative to probate matters and the matters above set out.

Civil and criminal cases and related matters within the general jurisdiction of the courts of general sessions of the state shall be tried or heard in Division I. Juvenile and Probate cases and related matters shall be tried or heard in Division II. Provided, however, nothing contained within the provisions of this act shall be construed to prohibit either of the judges of the court from hearing cases in either of the divisions of the court at the designation of the presiding judge. The Court of General Sessions is hereby vested with concurrent jurisdiction with trial courts of record to grant fiats for the issuance of restraining orders, injunctions, and attachment.

As amended by: Private Acts of 1982, Chapter 243

Private Acts of 1986, Chapter 156

Private Acts of 1989, Chapter 101

**SECTION 3.** That before the commencement of any civil action, the plaintiff shall pay into the hands of the Clerk an amount sufficient to cover the fees for the issuance of the warrant or writ, rendition of the judgment, docketing, and the fees of the officers for serving the process. Before the issuance of an execution, or other process, or the performance of any additional service in the case, the plaintiff, or the party seeking the same, shall pay the clerk the fees for the issuance and service thereof. Such payment made for court costs shall be credited at once to the party paying the same; and such costs paid as compensation for the services of the officers shall become payable to them only after the return of the process has been made. When and in the event such costs are collected from the defendant, the plaintiff or the party to whom entitled, shall thereupon be refunded the same; provided, however, that any resident of the state may commence and prosecute an action, who shall take and subscribe to the oath provided for poor persons, under Tennessee Code Annotated, Section 20-12-127.

As amended by: Private Acts of 1982, Chapter 243

**SECTION 4.** [Deleted by Private Acts of 1982, Chapter 243]

**SECTION 5.** [Deleted by Private Acts of 1982, Chapter 243]

**SECTION 6.** That the Court of General Sessions for Madison County, Tennessee 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 person charged with such misdemeanor offenses enters a plea of guilty or requests a trial upon the merits, and expressly waives an indictment, presentment and a Grand Jury investigation, and a jury trial. In such cases the trial shall proceed before the Judge and without a jury. The final judgment of such court may be appealed to the Circuit Court of Madison County, where such appeal shall be tried by a Judge of such Court without a jury, and without indictment or presentment.

**SECTION 7.** That it shall be the mandatory duty of the Judge of the 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 in 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 put to trial only by presentment or indictment by a Grand Jury and the right to be tried by a jury of his peers, such courts may proceed to hear and determine said case as is provided in Section 6 hereof. Said waiver shall be written or attached to the warrant substantially in words and figures as follows:

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 of his peers. \_\_\_\_\_ **SECTION 8.** [Deleted by Private Acts of 1982, Chapter 243]

**SECTION 9.** That no warrant or information charging a person with an offense against the laws of the State shall be delivered to any peace officer for the arrest of such person until after an entry in the Criminal Docket has been made by the Clerk, showing the names of the person or persons accused, the prosecutor, the officer to whom to be delivered and his signature upon said docket showing receipt of such process. All of such warrants, information, dockets and other records of said Court of General Sessions shall be available to the District Attorney- General for any legal purpose.

**SECTION 10.** That all appeal bonds in civil cases, all bail bonds, recognizance bonds and appearance bonds of persons charged with criminal offenses for their appearance for arraignment or trial in said Court of General Sessions shall be taken by the Clerk of the Circuit Court. This provision shall in no wise abridge the authority of the Sheriff to take bonds as now provided by law.

**SECTION 11.** 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 other compensation of the Sheriff, his deputies, constables, Game Wardens and State Highway Patrolmen for the execution of writs and process of said Court and for attendance and mileage of witnesses shall be the same in said Court as those provided by law of the Courts of Justices of the Peace.

All 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.

**SECTION 12.** That separate dockets shall be kept by the Clerk, under the direction of the 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 the 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 like manner, and shall also contain the information provided for in Section 9 of this Act.

The Judge of the Court of General Sessions shall have the power to and may adopt such rules as may be necessary to expedite the trial and disposal of cases.

**SECTION 13.** Both of the judges of the Court of General Sessions shall possess the qualifications and shall serve the same term of office as provided by the Constitution of the State of Tennessee, and by general law, for judges of Circuit and Chancery Courts. The oath of office shall be the same as that prescribed for trial judges of courts of record. The judge presiding over Division I shall be the presiding judge of the Court of General Sessions of Madison County, Tennessee for the one year period beginning on

September 1, 1982. Thereafter, the office of presiding judge of the court shall annually alternate between the judges of the two divisions with each such term of office as presiding judge of the court to begin on September 1.

The presiding judge of the court shall be responsible for the general oversight and administration of the court. He shall be responsible for scheduling the work assignments of the judges and for coordinating such interchange between the judges as may be necessitated by the volume of the case load in either or both of the divisions or by the sickness or absence of either of the judges. The presiding judge shall exercise such other administrative duties as may be appropriate and necessary for the orderly and efficient operation of the court.

In the event of the unavailability of the presiding judge at a time when an administrative action is required, the other judge of the court shall be authorized to take such action.

As amended by: Private Acts of 1982, Chapter 243

**SECTION 14.** That the compensation for each of the judges of the court of general sessions shall be forty-two thousand dollars (\$42,000.00) per annum and shall be paid in equal monthly installments from the general fund of the county. Such compensation shall be adjusted each year in accordance with the formula established by general law for determining annual salary adjustments for judges of trial courts. In addition, the county legislative body may provide such secretarial, office, and other expense allowances for the judges as is deemed necessary and proper.

As amended by: Private Acts of 1982, Chapter 243

**SECTION 15.** That the judges of the Court of General Sessions shall be elected by the qualified voters of Madison County at the regular August General Election of 1982, and every eight years thereafter, and shall take office on September 1, 1982. In the 1982 election, and in each succeeding election, the candidates for judge of the court shall designate and qualify to run either for Judge of the Court of General Sessions, Division I or for Judge of the Court of General Sessions, Division II. During no election shall any candidate designate and qualify to run for judge of Division I and for judge of Division II.

As amended by: Private Acts of 1982, Chapter 243

**SECTION 16.** That if the Judge of said Court fails to attend, cannot preside in a pending cause, or for any reason fails to hold court, a majority of the attorneys present in such Court may elect one of their number, who has the qualifications of such a judge, and when elected shall have the same authority as a regular judge to hold the court for the occasion, and the County Judge or Circuit Judges or Chancellor shall preside by interchange.

**SECTION 17.** That the Clerk of the Circuit Court of Madison County, Tennessee, shall act as Clerk of said Court of General Sessions, and when acting as Clerk of said Court shall be designated "Clerk of Court of General Sessions of Madison County, Tennessee". Said Clerk is hereby authorized to perform the duties of said Court. The fees, commissions and emoluments of said Clerk of Court of General Sessions shall constitute a part of the fees, commissions and emoluments of the office of the Clerk of the Circuit Court of Madison County, Tennessee, subject to the provisions of Section 11 of this Act. Said clerk, with the approval of the Judge of the Court of General Sessions, may appoint such deputies and assistants as may be necessary for the proper operation and administration of the duties of said office, who shall be compensated in the same manner as now provided for the compensation of deputy Circuit Court Clerks of Madison County as provided by law.

The Clerk of said Court and his deputies assigned thereto shall have concurrent authority with the Judge to issue warrants and other process and writs, other than those which the law required shall be issued only by a judicial officer.

The County Clerk of Madison County shall act as Clerk of the Court of General Sessions for all matters involving probate cases and proceedings. The Juvenile Court Clerk of Madison County shall act as Clerk of the Court of General Sessions for all matters involving juvenile cases and proceedings. The fees, commissions, emoluments, duties, authority and responsibilities of the clerks of the Court of General Sessions shall be the same as provided by general law for a clerk of a Court of General Sessions, a clerk of a Juvenile Court, and a clerk of a Probate Court.

Nothing contained in this Act shall be construed to affect or alter the duties, responsibilities, fees, and jurisdictions of the office of clerk of the Probate, Juvenile, or General Sessions Courts of Madison County. The County Clerk shall continue to serve as clerk for all Probate matters. The Juvenile Court Clerk shall continue to serve as the clerk for all juvenile matters. The Circuit Court Clerk shall continue to serve as clerk in all other matters within the jurisdiction of the General Sessions Court.

As amended by: Private Acts of 1982, Chapter 243.

**SECTION 18.** That the Sheriff of said County or any Deputy Sheriff or Constable thereof, shall serve legal processes, writs and papers issued by said Court with the same authority as heretofore provided by law.

**SECTION 19.** [Deleted by Private Acts of 1983, Chapter 53]

**SECTION 20.** [Deleted by Private Acts of 1982, Chapter 243]

**SECTION 21.** [Deleted by Private Acts of 1982, Chapter 243]

**SECTION 22.** [Deleted by Private Acts of 1982, Chapter 243]

**SECTION 23.** That the Legislature expressly declares that each section, sub-section, 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 24.** That all laws and parts of laws in conflict with this Act which apply to Madison County, Tennessee, be and the same are hereby repealed.

**SECTION 25.** That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: January 23, 1941.

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