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Private Acts of 1959 Chapter 57

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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,

The University of Tennessee
County Technical Assistance Service
226 Anne Dallas Dudley Boulevard, Suite 400
Nashville, Tennessee 37219
615.532.3555 phone
615.532.3699 fax
www.ctas.tennessee.edu

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Private Acts of 1959 Chapter 57

COMPILER'S NOTE: This act must be read in conjunction with Private Acts of 1981, Chapter 86.

SECTION 1. That by this Act a Court of General Sessions is created and established in and for Loudon County, Tennessee, which Court is vested with the legal powers, authority, prerogatives and jurisdiction hereinafter recited, delineated and provided. This Loudon County Court of General Sessions shall be held in the Courtroom of the Loudon County Justice Center. By consent of litigants, counsel and the Court, civil causes may be heard elsewhere in said county on any day except Sundays.

All trials and proceedings of said Court, wherever held, shall be open to the public except hearings falling within the purview of Section 12, Chapter No. 177 and Section 6 of Chapter No. 186 of the Public Acts of 1955, applicable to certain Juvenile Court cases.

The dockets, forms and minute books required for a systematic recordation of said Court's actions, orders, proceedings and judgments in all cases, civil, criminal and juvenile, shall be provided by the county, pursuant to requirements of Sections 1 and 2 of Chapter No. 138 of the Private Acts of 1951 and public laws applicable to purchases by counties.

As amended by: Private Acts of 1975, Chapter 35.

SECTION 2. That from and after the effective date of this Act as hereinafter provided, said Sessions Court shall be vested with all the jurisdiction, powers and authority conferred by the General Assembly of Tennessee upon Justices of the Peace in civil and criminal cases, suits, and actions, and, as hereinafter provided, with jurisdiction, power and authority to hear and determine, all misdemeanor charges and cases subject to the constitutional limitations provided by law; that from and after said effective date the Justices of the Peace of Loudon County shall be divested of all judicial powers, authority and jurisdiction.

It is provided, however, that this Act shall in nowise abridge, abrogate or affect the responsibilities, duties and authority of Justices of the Peace in and for said county except as herein specified. Said magistrates' authority in performance of the rites of matrimony and as members of the Quarterly County Court is in nowise impaired or affected by this enactment. Said Court of General Sessions shall have jurisdiction concurrent with the Circuit and Chancery Courts to try and dispose of divorce cases and annulments, and said Court shall try to dispose of divorce cases and annulments in the same manner and with the same authority as is vested in the Circuit and Chancery Courts.

As amended by: Private Acts of 1963, Chapter 284.

SECTION 3. That from and after the effective date of this Act, said Sessions Court, and the Judge thereof, shall be vested with all the jurisdiction, powers and authority conferred by the General Assembly of Tennessee upon the County Judge of Loudon County in juvenile cases, causes and matters; that from and after said effective date the County Judge of said county shall be divested of all powers, authority and jurisdiction vested in said judicial officer as Juvenile Judge.

It is provided, however, that this Act shall in nowise impair or affect the powers, duties and jurisdiction of the County Judge in and for Loudon County except as herein specified. In fiscal matters, insanity inquests, idiocy and mental deficiency hearing, habeas corpus proceedings, issuance of extraordinary process and writs, and in the performance of all statutory duties and responsibilities except those relating to the determination of juvenile cases and the administration of the juvenile laws, the power, authority and jurisdiction of the County Judge is not affected by this Act.

As amended by: Private Acts of 1981, Chapter 86

SECTION 4. That before the commencement of any civil action in said Sessions Court, the plaintiff shall be required to secure the costs incident to the action by executing a cost bond with solvent surety in the penalty of not less than Twenty-Five Dollars (\$25.00), or by making a cash deposit of not less than Ten Dollars (\$10.00) nor more than Twenty-Five Dollars (\$25.00), the exact sum thereof to be determined by the Judge or Clerk of said Court, or by taking the oath prescribed by law for poor persons. However, a plaintiff's good faith in taking said oath, and his right to proceed thereunder, may be questioned by the Judge or Clerk of said Court, by a defendant in the cause, or his counsel. After such inquiry, in which the burden of proof is upon the plaintiff, the Sessions Judge may require a cost bond or cash deposit as a condition precedent to the commencement of the action. On motion of a defendant or Court order, a plaintiff may be required to execute further bond or to increase the amount fixed in the bond executed, or to make an additional deposit.

SECTION 5. That the Judge of the Court created by this Act shall have the same power and authority to issue extraordinary process and writs as that conferred by law upon Circuit Judges and Chancellors. Whenever such process is applicable to parties to actions in said Court, the bond or oath required for its issuance shall be executed and filed as required by general laws applicable to extraordinary process in Justice of the Peace Courts.

SECTION 6. That the Judge of said Sessions Court is hereby empowered to adopt all rules of Court required to expedite the trial and disposition of cases, suits and proceedings, and to designate the days and hours of the Court's sessions, provided that civil causes shall not be triable on Sundays. On any day and at any time the Sessions Judge may issue warrants, examine and hear persons accused of criminal acts, discharge from custody or commit to jail, and fix and take bail, recognizance and appearance bonds.

SECTION 7. That the laws regulating pleading and practice, stay of judgments, appeals from judgments, writs and process in civil cases in the Courts of Justices of the Peace shall apply to the Court created by this Act in its determination of all civil matters triable in the Justices' Courts at the effective date of this Act; that all laws applicable to Justice of the Peace trials, civil and criminal, unless otherwise provided, shall apply to the Sessions Court in the dispatch of all cases except causes instituted under the juvenile laws.

SECTION 8. That the laws regulating pleading and practice, procedure, evidence, hearings, trials, commitments, appeals and records in the Juvenile Courts of County Judges shall apply to all juvenile proceedings, hearings and cases in the Court created by this Act; that all laws applicable to juvenile matters shall apply to the administration of juvenile justice in said Sessions Court.

SECTION 9. That in all cases and causes triable in Justices of the Peace Courts at the effective date of this Act, the costs and fees of the Court created by this Act shall be the same as is now, or may hereafter be, provided by law for said Justices' Courts; that in all misdemeanor cases in which a final judgment can now be rendered only in Criminal Court of Loudon County, the costs and fees of the Sessions Court shall be the same as is now, or may hereafter be, provided by laws for said Criminal Court; that in juvenile cases and matters the fees and costs of said Court shall be the same as is now, or may hereafter be, provided by law for Juvenile Courts, and said Fees and costs shall include all sums now or subsequently recoverable by the County of Loudon under the general law applicable to juvenile causes and matters in the County Courts of Tennessee.

It is provided further that all costs, fees, fines and forfeitures adjudged by said Sessions Court shall be recorded and accounted for as other county funds are deposited and paid over under law. Quarterly, the Clerk of said Court shall pay over to the County Trustee all fees, costs, fines, forfeitures, commissions and emoluments accruing to said Court, for deposit to the credit of the county's general fund.

The fees of lawful officers of the county for execution of writs and process of said Court, and the fees of witnesses for their compulsory attendance therein, shall be the same as is now, or may hereafter be, provided by law for such services and acts.

SECTION 10. That in addition to the jurisdiction conferred by law upon Justices of the Peace, and upon County Courts, in juvenile matters and cases, the Court created by this Act is hereby vested with power and authority to hear and determine and render final judgment in all misdemeanor cases brought before said Court by warrant or information wherein the person charged enters a plea of guilty or requests a trial upon the merits, and in writing expressly waives an indictment, presentment, grand jury investigation, and trial by jury. When such plea is entered or request made and waiver signed, the trial shall proceed before the Court without the intervention of a jury to final judgment.

The final judgment of said Court in all misdemeanors tried as herein provided may be appealed to the next term of the Criminal Court of Loudon County provided the person charged and found guilty executes a bond with solvent surety conditioned to pay the fine assessed and the costs including the costs of appeal upon affirmation of the judgment and a legally sufficient bail or appearance bond with two or more solvent sureties, or takes and subscribes to the oath prescribed for poor persons. A defendant's good faith in taking such oath may be inquired into as provided hereinbefore.

The criminal judgments of said Court, except in juvenile cases, shall become final at the time of their rendition. Such judgments, unless appealed instanter, shall not be altered or modified except for error. However, a defendant shall have two full days, exclusive of Sundays, in which to perfect his appeal by execution of the required costs and appearance bonds, provided an appeal from the Court's final judgment was taken at the time of its rendition. An appeal, regularly before the Criminal Court of Loudon County, Tennessee, shall be heard by the Judge thereof without a jury, and without indictment or presentment, upon the warrant or information under which the defendant was found guilty in the Sessions Court.

As provided herein, appeals of juvenile cases shall be taken and perfected as required by general law applicable to appeals from final judgments of County Judges in their capacity as Juvenile Judges.

The Judge of said Sessions Court is specifically empowered to issue all process and writs necessary to effectuate the execution of the judgment pronounced in any criminal case heard in said Court, and to punish contemnors for all contempts punishable by Circuit Judges and Chancellors.

SECTION 11. That it shall be obligatory upon the Judge of said Sessions Court to advise every defendant of his constitutional rights to aid of counsel, to be tried only upon presentment or indictment preferred by

a grand jury, to make a statement with reference to the accusation against him or to remain silent as to said charge, and to a trial by a jury of his peers; that the Court's recital of said rights shall precede the acceptance or entry of a defendant's plea in a criminal case.

Upon a defendant's voluntary waiver of his constitutional rights to be tried upon a presentment or indictment, and by a jury of his peers, said Sessions Judge shall proceed to hear and determine said defendant's guilt or innocence.

To be sufficient, said waiver shall disclose the identity of the accused, the nature of his alleged offense, his plea thereto, the particular rights waived, and the date executed, and be signed by the person charged and the Clerk of the Court or his deputy. No exception may be taken to the following form:

The defendant _____ pleads _____ guilty to the offense with which he stands charged, to-wit: _____, and expressly waives his right to be tried only upon presentment or indictment preferred by a grand jury, and his right to be tried by a jury of his peers. This the _____ day of _____, 19_____.

Defendant

Clerk or Deputy Clerk

A defendant incapable of signing his name may make his mark in the presence of a third person, and the Clerk or his deputy shall attest said act.

SECTION 12. That separate dockets shall be kept by the Clerk of said Court, under the direction of the Judge thereof, for civil, criminal and juvenile cases. Upon the civil docket shall be entered the style of each case, the date of the warrant or process, the officer to whom said warrant or process was delivered, the return of the process in brief form, the action of the Court on the case, interlocutory and final orders, judgments, executions, garnishments, the fees of the Court, officers and witnesses, and credits for payments upon judgments or costs.

The criminal docket shall disclose the name of every person for whose arrest a warrant or information was issued, the officer to whom said writ was delivered for execution, the prosecutor of the alleged offender, and all further information required by law. The Clerk shall not deliver a criminal warrant to writ to an officer for execution until its issuance has been recorded in the criminal docket.

The juvenile docket and the juvenile record shall disclose all information required by Section 3 of Chapter No. 177 of the Public Acts of 1955 applicable to juvenile cases, and such further facts as subsequent laws may require.

SECTION 13. That said Sessions Judge shall have the qualifications and take the oath of office prescribed by law for Circuit Judges and Chancellors; that the compensation of said Judge shall be Six Thousand Dollars (\$6,000.00) per annum, payable in equal monthly installments by warrant drawn upon the general funds of the County; that the first Judge of said Court shall be elected by the qualified voters of Loudon County at the regular or biennial election to be held in August 1960 and serve until September 1, 1966; that his successor shall be similarly elected in the regular biennial election to be held in August 1966, and at said August election every eight (8) years thereafter; that each successor shall take office September first (1st) following his election as aforesaid.

It is further provided that said Judge shall be entitled to twelve (12) days vacation time in any twelve (12) months period.

Said Sessions Judge shall be entitled to receive an expense allowance of twelve hundred dollars (\$1200.00) per annum, payable in equal monthly installments by warrant drawn upon the general funds of the County.

As amended by: Private Acts of 1963, Chapter 284

SECTION 14. That in the event of a vacancy in the office of said Judge the Governor shall forthwith appoint a Sessions Judge having the qualifications required by this Act. Said appointee shall hold office until September first (1st) following the next biennial August Election, in which election the qualified voters of Loudon County shall elect a successor for the remainder of the unexpired term. Should a vacancy occur within fifteen (15) days of such biennial election the appointee shall hold office until September first (1st) following the next biennial election.

SECTION 15. That in the event said Judge should fail to appear at any session of said Court, except sessions held during his annual vacation, the lawyers present may by majority vote elect any qualified person Judge of said Court during the temporary absence of said judicial officer. The same procedure shall apply in designating a Judge to hear any case in which the regular Judge is interested or recuses himself.

When elected, as aforesaid, openly or by secret ballot, the special Judge shall be vested with power and authority to hold said Court during the absence of the regular Judge. Every such election shall be held by the Clerk of said Court, who shall make and file a record thereof and administer unto the person elected the same oath taken by Circuit Judges and Chancellors.

It is provided further that no claim against the County for compensation of special Judges shall be allowed except for the services rendered by the Judges elected to preside over said Court during the vacation of the regular Judge. The Judge elected for said period shall be compensated at the rate established by this Act for said regular Judge. The source, form and time of said payments shall be the same as provided herein for said office.

The election of the special Judge to hold said Court during the vacation of the regular Judge shall be held by the Clerk as aforesaid, but before said election shall become final a majority of the members of the bar of the County shall cast their votes for one qualified person. The Clerk shall mail notices of the hour and day of said election to all members of the Loudon County bar at least three full days before the designated date thereof. The Judge of said Court shall be eligible to vote in said election to be held in the courtroom of the County courthouse. As aforesaid, the balloting may be either open or secret. Said election shall be held on any one of the ten (10) days preceding the first vacation day of the regular Judge. A special Judge elected under any of the provisions of this Act shall be vested with all the authority and jurisdiction of the Judge of said Court during the latter's absence or until a successor is elected as provided herein.

SECTION 16. That a willful and inexcusable neglect of duty or a prolonged and unreasonable absence of the Judge of said Sessions Court shall create a vacancy in said office, providing such neglect or absence shall be judicially determined by a legally rendered judgment or decree in a proceeding properly initialed for said purpose by one or more citizens and residents of Loudon County. This procedure for remedial action in case of dereliction of duty on the part of said Judge shall not be construed as an abridgement of existing law. Therefore, if held unconstitutional this section shall be elided without affecting the remaining provisions of this Act.

SECTION 17. That said Sessions Judge shall hear and determine all cases pending in the Courts of Justices of the Peace and in the Juvenile Court of the County Judge of Loudon County on September 1, 1960, the effective date of this Act.

SECTION 18. That said Judge shall not be precluded from practicing law in the Chancery, Circuit, County or Appellate Courts except in cases which originated in said Sessions Court or in which the facts relied upon by a party were presented in a trial or proceeding held in said Court. Said Judge shall not be a partner to any lawyer practicing in said Court, nor a member of a firm of practicing attorneys.

SECTION 19. That the Clerk of the Circuit Court of Loudon County shall be the Clerk of the Court created by this Act, and when acting in said capacity shall be designated Clerk of the Court of General Sessions. As compensation for his services, said Clerk shall receive One Thousand Eight Hundred Dollars (\$1,800.00) per annum, payable in equal monthly installments from the general fund of Loudon County. The Clerk's compensation shall not be added to the fees, commissions and emoluments of the Circuit Court Clerk in determining the earnings of said Clerk under the General or Maximum Salary Act.

SECTION 20. That the Clerk of said Court is hereby empowered and authorized to issue all warrants, process and writs other than those issuable only by a Judicial officer under general law, and to take prosecution and cost bonds in civil actions and bail, recognizance and appearance bonds in bailable criminal offenses. No abridgment of the Sheriff's authority to accept bonds as provided by law is intended.

SECTION 21. That said Clerk shall receive, safely keep and account for all funds coming into his hands, and shall execute a bond payable unto the State of Tennessee, for the use and benefit of Loudon County, in the penalty of Five Thousand Dollars (\$5,000.00), secured by solvent surety and conditioned as are bonds of other money handling county officials.

SECTION 22. That Justices of the Peace for Loudon County be required to deliver their dockets and all papers filed in their courts, in cases tried and pending, to said Sessions Court before twelve (12) o'clock noon, September 1, 1960. The failure of a magistrate to make said deliveries within the time specified, or to account for all fines assessed, shall constitute a forfeiture of all fees due him as such officer. Unless forfeited as aforesaid, the Justices of said County may recover all unpaid fees provided by law.

SECTION 23. That each section, paragraph and sentence of this Act is severable. Therefore, only the parts expressly invalidated shall fail. In the event of an attack upon this Act, the provisions found to be unconstitutional or invalid shall be elided, without impairment of any part not expressly invalidated.

SECTION 24. That it is the intendment of this Act to exclude and exempt Loudon County from the provisions of all laws in conflict with those embraced herein, and to such extent said conflicting laws are hereby repealed.

SECTION 25. That this Act shall be approved or rejected, and thereby made effective or inoperative, by a plurality of the votes cast by the qualified voters of Loudon County in an election to be called and held by the Commissioners of election of said County within ninety (90) days after the sine die adjournment of the Eighty-First General Assembly of Tennessee. The ballots to be cast in said election shall read as follows:

For the Sessions Court

Against the Sessions Court

All laws applicable to the biennial August elections shall apply to the said referendum. Said Commissioners of Election shall canvass the returns of said election and certify the result thereof to the Secretary of State. Thereupon, this Act shall take effect September 1, 1960, the public welfare requiring it.

Passed: February 18, 1959.

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