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Courts

Dear Reader:

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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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Courts

Reference Number: CTAS-470

"The judicial power of this State shall be vested in one Supreme Court and in such Circuit, Chancery and other inferior Courts as the Legislature shall from time to time, ordain and establish."

Tenn. Const., art. VI, § 1.

Trial Courts

Reference Number: CTAS-474

Organization

The state trial courts were divided into 31 judicial districts in 1984. T.C.A. § 16-2-506. Circuit and chancery courts exist within each district, and some districts have separate criminal courts. Each judicial district selects a presiding judge who assigns cases to reduce delays, distributes the workload equitably, and promotes the orderly and efficient administration of justice in the district. T.C.A. § 16-2-509. The judges of each district must promulgate uniform rules of practice for that district. T.C.A. § 16-2-511. The administrative director of the courts maintains a list of the local rules. T.C.A. § 16-2-511.

The 1984 redistricting bill abolished the "terms of court." The minutes of all courts remain open continuously. T.C.A. § 16-2-510. Court is held within each judicial district at times set by the judges of that district and within each county in the district as needed to dispose of the court's business. T.C.A. § 16-2-510.

Circuit and chancery court judges are elected for an eight-year term by the voters of the district or circuit to which they are assigned. Tenn. Const., art. VI, § 4. A judge must be 30 years old, a Tennessee resident for five years, a resident of the circuit or district for one year (Tenn. Const., art. VI, § 4), licensed to practice law in Tennessee, and eligible under the general standards to hold public office. T.C.A. §§ 17-1-106, 8-18-101.

To facilitate the handling of cases, any judge or chancellor may exercise by interchange, appointment, or designation the jurisdiction of any trial court other than that to which he was elected or appointed. T.C.A. § 16-2-502. Legislation passed in 1997 provided that any judge sitting by interchange has the same immunity as the judge he or she is replacing and that the state or county must provide the same defense, if necessary, for the substituting judge. T.C.A. § 16-1-114.

The Tennessee Constitution provides in Article VI, Section 13 that chancellors appoint the clerk and master for a six-year term and that clerks of other inferior courts are elected for a four-year term. Clerks of court act as the principal administrative aides to the courts. Additional information about Clerks of Court can be found under County Offices.

Jurisdiction of Circuit Court

Reference Number: CTAS-490

The General Assembly may establish circuit courts, and may increase or diminish the jurisdiction. Tenn. Const., art. VI, §§ 1, 8. The court has general jurisdiction in all cases where jurisdiction is not conferred on another tribunal. T.C.A. § 16-10-101. The court may hear and determine suits of an equitable nature, if there is no objection, or may transfer such cases to the chancery court. If the circuit court chooses to hear an equity case, it must determine the case upon equity principles and may exercise equitable powers. T.C.A. § 16-10-111.

The circuit court has exclusive original jurisdiction in the following cases:

1. Correction of mistakes in deeds of conveyance of land or registration thereof. T.C.A. § 66-5-107;
2. Applications to restore citizenship by persons who have been rendered infamous by judgments of any court in the state. T.C.A. §§ 16-10-104, 40-29-101;
3. All matters relating to the seizure and destruction of intoxicating liquor if the circuit court has jurisdiction in a particular county over offenses against the state liquor laws. T.C.A. § 57-9-105;

4. Eminent domain cases and *in rem* eminent domain cases brought by the county, state, or United States. T.C.A. §§ 29-16-104, 29-17-701;
5. Motions to impose a \$500 forfeiture upon the county trustee for certain breaches of duty, and to impose liability on the trustee and the trustee's surety for breach of duty. T.C.A. § 8-11-106 through 8-11-108;
6. Writs of mandamus to enforce the performance of any duty made incumbent by law upon the county. T.C.A. § 5-1-107;
7. Suits to condemn land for the failure to pay taxes where personal property does not satisfy the distress warrant and where the sheriff has levied upon the real estate. T.C.A. §§ 67-4-110(c), 67-4-215(c);
8. Motions to proceed against any tax collector or other officer of the state who fails to collect taxes, who fails to pay over taxes received by him, or who commits any act of neglect, misprision, misfeasance, or malfeasance in office. T.C.A. §§ 67-1-1602(b), 67-1-1623(a); and
9. Petitions by the circuit court clerk, and the sheriff in counties without a separate criminal court, requesting authority to hire deputies or assistants. T.C.A. § 8-20-101.

Unless otherwise provided, the circuit court has appellate jurisdiction of all actions of any nature instituted before any inferior jurisdiction, whether brought by appeal, certiorari, or in any other manner prescribed by law. T.C.A. § 16-10-112. An appeal may be taken to the circuit court from the judgment of the general sessions court, city judge, recorder or other officer of a municipality. T.C.A. §§ 27-5-101, 27-5-108, 6-21-508. In 1996, the legislature amended Title 4, Chapter 21, to allow the circuit court to share jurisdiction with the chancery court over human rights actions. In 1997 the legislature also amended T.C.A. § 37-1-159 to give the circuit court appellate jurisdiction over unruly child proceedings and dependent and neglect proceedings heard in the juvenile court. In these cases, the circuit court shall try the case de novo.

Jurisdiction of Chancery Court

Reference Number: CTAS-491

The General Assembly determines the chancery court's jurisdiction, and may increase, decrease, or alter its jurisdiction. Tenn. Const., art. VI, § 8. Chancery courts "shall have all the powers, privileges, and jurisdiction properly and rightfully incident to a court of equity." T.C.A. § 16-11-101. This inherent jurisdiction is original and exclusive in cases of an equitable nature, where the debt or demand exceeds \$50, unless otherwise provided. It lacks jurisdiction in cases where the debt or demand is less than \$50, unless otherwise specifically provided. T.C.A. § 16-11-103. Although this inherent jurisdiction is exclusive, if no objection to jurisdiction is made, a circuit court may hear and determine such suits or may transfer the suit to chancery court. T.C.A. § 16-10-111.

Chancery courts exercise inherent jurisdiction, where the debt or demand exceeds \$50, in the following cases:

1. All actions resulting from accidents and mistakes;
2. All actions resulting from frauds, actual and constructive;
3. All actions resulting from trusts, express, constructive and resulting;
4. All actions for the specific performance of contracts;
5. All actions for the reformation, re-execution, rescission and surrender of written instruments;
6. All actions for an accounting, and for surcharging and falsifying accounts;
7. All actions between partners, and to wind up an insolvent partnership;
8. All actions for the administration and marshaling of assets;
9. All actions for subrogation and substitution;
10. All actions for the enforcement of liens created by mortgages, deeds of trust, sales of land on credit, or other equitable consideration;
11. All actions against minors in reference to their estates, not cognizable at law;
12. All actions by wards against guardians, executors, administrators and others, where an accounting or surcharging or falsifying an account is necessary;

13. All actions for an apportionment and contribution;
14. All actions for the marshaling of securities;
15. All actions for relief against forfeitures and penalties;
16. All actions for the redemption of land or other property;
17. All actions to have absolute deeds or bills of sale declared to be mortgages;
18. All actions for the construction and enforcement of wills and trusts;
19. All actions to obtain a set-off against a judgment in favor of a nonresident or insolvent;
20. All actions for the discovery and perpetuation of testimony;
21. All actions to compel claimants to interplead;
22. All actions for equitable attachments and receivers;
23. All actions where a *ne exeat republica* is sought;
24. All actions where an injunction is a substantial part of the relief sought;
25. All actions to remove clouds and quiet titles;
26. All actions for the establishment and execution of charities;
27. All actions for a new trial after a judgment at law;
28. All actions to have void judgments so declared, and to avoid voidable judgments;
29. All actions to execute decrees and to impeach decrees and judgments;
30. All actions to prevent the doing of an illegal or inequitable act to the injury of plaintiff's property rights, or interests, *quia timet*;
31. All actions for the exoneration or protection of sureties; and
32. All other actions where the defendant has done, or is doing, or is threatening to do, some inequitable act to the injury of the plaintiff, and there is no adequate remedy in any other court.

Gibson's Suits in Chancery (7th ed. Inman 1988), § 3.

Jurisdiction has been increased to encompass specific actions, including:

1. To aid judgment creditors to subject a debtor's property that cannot be reached by execution to the satisfaction of the judgment. T.C.A. § 16-11-104;
2. To decide all disputes between the state and corporations, their stockholders or creditors. T.C.A. § 16-11-105;
3. To aid creditors of a corporation, without obtaining a judgment at law, to attach the property of a corporation, and subject the same, by sale or otherwise, to the satisfaction of their debts, when the corporate franchises are not used, or have been granted to others. T.C.A. § 29-12-107;
4. To decide all boundary line disputes. T.C.A. § 16-11-106(a);
5. To enforce foreign judgments against the property of a nonresident debtor when the judgment creditor has exhausted his legal remedies. T.C.A. § 26-6-103 *et seq.*;
6. To approve the sale of property of a minor or disabled person. T.C.A. § 34-1-116;
7. To compel the distribution of estates where there are difficulties, complexities, or conflicting claims. T.C.A. § 30-2-710; and
8. To remove the disability of a minor. T.C.A. § 29-31-101.

Concurrent Jurisdiction of Circuit and Chancery Courts.

Reference Number: CTAS-492

Chancery court has concurrent jurisdiction with circuit court to hear "all civil cases of action, triable in circuit court, except for unliquidated damages for injuries to person or character, and except for unliquidated damages for injuries to property not resulting from a breach of oral or written contract." T.C.A. § 16-11-102.

Jurisdiction of Criminal Courts

Reference Number: CTAS-493

The circuit courts have "exclusive original jurisdiction of all crimes and misdemeanors, either at common law or by statute, unless otherwise expressly provided by statute." T.C.A. § 16-10-102. The criminal and circuit courts have "original jurisdiction of all criminal matters not exclusively conferred by law on some other tribunal." T.C.A. § 40-1-108.

In addition to their original jurisdiction over felonies and misdemeanors, criminal courts have exclusive jurisdiction over special crime-related matters and noncriminal matters, including all matters relating to the seizure and destruction of intoxicating liquors when an offense against a state liquor law has been committed. T.C.A. § 57-9-105. Criminal court judges possess magistrate powers and may issue warrants for the arrest of a person charged with a public offense. T.C.A. §§ 40-5-101, 40-5-102.

Unless otherwise provided, the circuit courts have appellate jurisdiction in all criminal cases and actions originally tried in inferior courts "whether brought by appeal, certiorari, or in any other manner prescribed by law." T.C.A. § 16-10-112. Criminal courts have authority to grant extraordinary relief in appeals from courts of inferior jurisdiction. *Franks v. State*, 565 S.W.2d 36 (Tenn. Crim. App. 1977).

Criminal courts were also granted appellate jurisdiction over delinquency proceedings in the juvenile court by amendments to T.C.A. § 37-1-159 passed in 1997. These appeals are tried de novo by the criminal court.

General Sessions and Other Inferior Courts

Reference Number: CTAS-475

General Sessions Court

Reference Number: CTAS-494

General sessions court judges must be 30 years old, a Tennessee resident for five years, a resident of the county for one year, and licensed to practice law in Tennessee. T.C.A. §§ 16-15-201, 16-15-5005, Tenn. Const., art. VI, § 4. A judge is elected to an eight-year-term. T.C.A. § 16-15-202. A non-attorney may serve as a general sessions judge only in very limited situations. T.C.A. § 16-15-5005. A county legislative body may not establish and fund additional part-time general sessions judges. The code simply allows private acts that would establish part-time general sessions judges in class 1, 2 or 3 counties. Op. Tenn. Att'y Gen. 93-52 (August 9, 1993). The circuit court clerk acts as a general sessions clerk, unless a separate clerk is created by a private act. T.C.A. § 16-15-301.

Salaries are set by general law according to population class, which differs from the population class set forth for county officials. Judges in certain classes may receive additional compensation for additional jurisdiction. However, no general sessions judge shall receive a salary greater than that of a circuit judge. T.C.A. § 16-15-5003. While annual salary adjustments are built into the law, the general salary structure for judges may not be altered during their term. Tenn. Const., art. VI, § 7. A new term began September 1, 2006.

The compensation of the judges of courts of general sessions is determined by the administrative office of the courts (AOC) in accordance with the provisions of T.C.A. § 16-15-5003, as amended by 2006 Public Chapter 957. On September 1, 2006, each judge received an increase in the amount of \$10,000 or 20% of their total annual compensation as of August 31, 2006, whichever is less, and the compensation of judges in each population classification were to be equalized in accordance with their jurisdictional supplements. In Class 1 the equalization is accomplished by raising the compensation of all judges to the salary of the highest paid judge in Class 1 who is paid under this general law. In Classes 2-7, judges with maximum supplements are raised to the compensation of the highest paid judge in that class with maximum supplements, and all other judges are grouped by jurisdiction and paid the same as the highest paid judge with the same jurisdiction in the same population class. On or before July 15, 2006, each general sessions judge was required to certify to the AOC the total amount of compensation received by the judge as of August 31, 2006, the jurisdictions exercised by such judge and the legal basis therefor, and whether the judge is compensated under the general law or a private act. The AOC thereupon reported to each judge the amount of compensation to be paid to such judge beginning September 1, 2006.

A county, by public or private act in effect on September 1, 2006, may compensate its judges in excess of the amount required under T.C.A. § 16-15-5003 (but not above state judges), but a judge is not to

receive compensation based both on this general law and a private act or other public act. No judge is to be paid a salary reflecting jurisdictional supplements the judge is not entitled to exercise. No general sessions judge who engages in the private practice of law will receive any increase under this law if such judge is prohibited by law from engaging in private practice. Judges in Knox County are compensated the same as those in Davidson County under a special provision in this law. T.C.A. § 16-15-5003.

Jurisdiction of General Sessions Court

Reference Number: CTAS-495

The jurisdictional limit of the general sessions court is \$25,000 in all civil cases in all counties, except in cases of forcible entry and detainer, where the court has unlimited original jurisdiction, including jurisdiction to award an alternative money judgment. Also, the general sessions court judges have jurisdiction to issue restraining orders and enforce penalty provisions for violation of these restraining orders. T.C.A. § 16-15-501. Attorney's fees, court costs and discretionary costs are not included in the calculation of whether a judgment entered by the general sessions court exceeds these monetary jurisdictional limits. T.C.A. §§ 16-15-501, 29-30-102. The court has jurisdiction to try misdemeanor cases and may issue sentences within the limits provided by law for the particular offense. T.C.A. § 40-1-109. Pursuant to T.C.A. § 40-11-204, general sessions judges also hear petitions for relief on forfeited recognizances.

In many counties, the general sessions court may have, by private or public act, other subject matter jurisdiction, including probate, domestic relations, and Workers' compensation. See T.C.A. §§ 16-15-401, 40-6-214 (arrest warrants), 27-8-105 (certiorari), 17-2-209 (divorce interchange), 17-2-208 (interchange), and private acts relative to jurisdiction in the various counties.

Civil cases, originating in general sessions court and appealed to a higher court, shall not be dismissed for informality, but shall be tried on the merits of the case. The higher court shall allow all amendments in the form of the action, the parties in the case, or the statement of the cause of action when necessary to reach the merits. The trial, including damages awarded, is de novo. T.C.A. § 16-15-729.

Juvenile Courts

Reference Number: CTAS-496

The general sessions court, except those with a special juvenile court established by private act, has juvenile court jurisdiction. T.C.A. § 37-1-203. Every court having juvenile jurisdiction must have a sign in a conspicuous place identifying it as "Juvenile Court." T.C.A. § 37-1-206. The general sessions court when acting as juvenile court has the Title and style of "Juvenile Court of _____ County." T.C.A. § 37-1-204. However, the legislature did not intend to make the juvenile court a general sessions court. The intent was to transfer juvenile court jurisdiction to the general sessions court and to make the general sessions court a juvenile court when the subject matter before the court was within the jurisdiction conferred upon juvenile courts. *State ex rel. Winberry v. Brooks*, 670 S.W.2d 631 (Tenn. Ct. App. 1984). Only general sessions judges who are licensed to practice law in Tennessee may order commitment of a juvenile to the Department of Correction. T.C.A. § 37-1-203. If the judge is not licensed to practice in Tennessee, a lawyer-referee is appointed to handle such matters. T.C.A. § 37-1-107. The juvenile court has concurrent jurisdiction with the circuit and chancery court of proceedings arising from the 1980 Hague Convention on the Civil Aspects of International Child Abduction. T.C.A. § 37-1-104.

Pursuant to T.C.A. § 37-1-702, juvenile judges are authorized to establish a teen court program. The teen court is given the authority to conduct proceedings, receive evidence, hear testimony related to the dispositional stage and recommend disposition of the case. For any particular case, the teen court consists of five teen members chosen from a panel of 12 or more teenagers appointed by the juvenile court judge.

General Sessions Court and Interchange

Reference Number: CTAS-497

Under T.C.A. § 17-2-208, general sessions and juvenile judges may interchange with each other. The substituting judge need not be a resident of the same county, but must otherwise possess the same qualifications of the absent judge. If another judge cannot serve by interchange, general sessions and juvenile judges who must be absent from court may seek a special judge pursuant to the requirements and process set forth in TCA 16-15-209. General sessions court judges may sit by

interchange for municipal court judges, but not vice versa. T.C.A. § 16-18-312.

Probate Court

Reference Number: CTAS-498

Chancery court has exclusive jurisdiction to probate wills and administer estates, unless provided otherwise by law. T.C.A. § 16-16-201. The clerk and master exercises probate jurisdiction, unless otherwise provided.

Special Courts

Reference Number: CTAS-499

Occasionally, public or private acts create courts to exercise particular jurisdiction in a county. Some counties have chosen through private acts to have separate special jurisdiction courts. Probate jurisdiction is in chancery court unless it is placed in another court by a special act. Similarly, general sessions court has juvenile jurisdiction, unless it is placed in another court by private act. Some counties have combined specialized jurisdictions to create new court titles. The clerk of these courts is designated in the private acts creating these courts. The judge's salary is determined according to the special legislation. Cases from these special inferior courts may be appealed to the circuit court for a de novo trial.

Judicial Commissioner

Reference Number: CTAS-476

In most counties (and all under 200,000 population) the legislative body may appoint one or more people to serve as judicial commissioners whose duties include, but are not limited to:

1. Issuing arrest and search warrants upon a finding of probable cause;
2. Issuing mittimus following compliance with lawful procedures;
3. Appointing attorneys for indigent defendants;
4. Setting and approving bonds and the release on recognizance of defendants; and
5. Issuance of injunctions and other appropriate orders in cases of alleged domestic violence.

T.C.A. § 40-1-111.

A judicial commissioner appointed by the county legislative body is considered a county officer and serves a fixed term set by the county legislative body, but the term may not be longer than four years. Judicial commissioners are compensated from the county's general fund in an amount determined by the legislative body. All fees collected by judicial commissioners must be paid to the county general fund. T.C.A. § 40-1-111. No search warrant, arrest warrant or mittimus may be issued by an official whose compensation is contingent in any manner upon the issuance or nonissuance of such warrants or mittimus. T.C.A. § 40-5-106.

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