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Private Acts of 1949 Chapter 285

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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Private Acts of 1949 Chapter 285

SECTION 1. That there is hereby created and established in and for Clay County, Tennessee, a Court which shall be designated Court of General Sessions of Clay County, Tennessee, which shall possess the powers and jurisdiction as hereinafter provided. The Court shall be held in Celina, and Clay County shall provide courtrooms, dockets, furnishings, and necessary supplies for the equipment, operation and maintenance of said Court, and pay for same out of the ordinary funds of said county.

SECTION 2. That the jurisdiction, powers and authority of said Court shall be coextensive with Clay County and shall be the same as provided by law for Justices of the Peace in civil and criminal action; and the Justices of the Peace of Clay County are hereby divested of all such jurisdiction, powers and authority. 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. The said Justices of the Peace shall retain their power and authority to issue criminal warrants, mittimus, accept and approve appearance bonds, and said Justices of the Peace shall be paid their regular fees for such services, but such warrants, mittimus and appearance bonds shall be returnable for trial before the General Sessions Judge.

As amended by: Private Acts of 1949, Chapter 881

SECTION 3. That the Court of General Sessions is hereby vested with the 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 Clay County, by the defendant, where such appeal shall be tried by a Judge of such Court without a jury, and without indictment or presentment.

SECTION 4. 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 by presentment or indictment by a Grand Jury and the right to be tried by a jury of his peers, such Court may proceed to hear and determine said case as is provided in Section 3 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 5. That the laws regulating pleading and practice, stay of judgments, writs and processes in civil actions in the Courts of Justices of the Peace shall apply to and govern said Court; and all of the statutes regulating appeals before Justices of the Peace shall likewise apply to said Court, except no appeal shall be granted from a judgment dismissing a suit or judgment which does not exceed the amount of Twenty-five (\$25.00) Dollars, exclusive of interest and cost; howevr (sic), a new trial of said excepted cases may be had and with as full rights as if on appeal to the Circuit Court, provided a petition for a writ of certiorari showing merit and sworn to has been filed with the Circuit Court within ten days from the date of judgment complained of, and the writ has been granted. No execution shall issue during said period of ten days unless said writ has been previously denied.

SECTION 6. That before the issuance of any warrant in a civil case, the plaintiff shall execute a cost bond with good security in the sum of Twenty-five (\$25.00) Dollars, or in lieu thereof, make a cash deposit with the Clerk of not less than Two Dollars and fifty cents (\$2.50), or more than Twenty-five (\$25.00) Dollars, to secure the costs, or take the oath prescribed for poor persons, and on motion, the Court may increase the security.

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 other compensation of the Sheriff, his Deputies, Constables, Game Wardens, and State Highway Patrolmen for the execution of writs and processes of said Court and fees for attendance and mileage of witnesses shall be the same in said Court as those provided by law for the Courts of the

Justices of the Peace.

The fees and compensation, due for services rendered by the Court, shall accrue to Clay County, and the Clerk of said Court shall pay to said county monthly all fees, commissions and emoluments of said Court of General Sessions.

The fees and compensation, costs and mileage of witnesses, the Sheriff, his deputies, constables, game wardens and State Highway Patrolmen for services to said Court, and the fines and forfeitures adjudged by it shall be paid to the Clerk, and handled, accounted for, and disbursed as required by law. The Clerk of said Court shall monthly pay to Clay County all fines and forfeitures collected.

SECTION 8. That there shall be one civil docket and one criminal docket for the Court in which all cases shall be entered immediately upon the issuance of the warrant. Upon said dockets shall be entered the style and number of the case, the date of the issuance of the warrant or process, the name of the officer to whom delivered, the return of the process in brief form, the action of the Court both interlocutory and final, orders, judgments, executions, garnishments, lists of fees of Court, of the Sheriff and all other officers for their respective services, fees of witnesses for attendance, credits for payments upon judgments and upon costs. There shall be a direct and cross index of each case in the civil docket and a direct index giving the name of the defendant on the criminal docket, so as to provide ready access to the record of each case.

The judgment of the Court shall be entered both on the warrant and docket and signed by the trial judge.

On the criminal docket there shall be kept a column wherein the criminal warrant is charged to the officer taking out the warrant, and the officer who receives the warrant, shall give a receipt for same. No warrant, criminal or civil, shall be taken from the office of said Court until its issuance has been properly entered on said respective dockets.

SECTION 9. There shall be one judge for said court who shall be at least thirty (30) years of age, and shall before his election, have been a resident of the state for five (5) years and of Clay County for one (1) year. The oath of said judge shall be the same as that prescribed for chancellors.

As amended by:

Private Acts of 1963, Chapter 227

Private Acts of 1984, Chapter 212

SECTION 10. That the compensation of said Judge shall be Two Thousand Four Hundred (\$2,400.00) Dollars per annum, payable in equal monthly installments, on the first day of each month. It shall be paid out of the ordinary funds of Clay County and shall not be increased or diminished during the time for which said Judge is elected.

The Judge of said Court may practice his profession in the other Courts of this State so long as it does not interfere with his duties as Judge of the Court of General Sessions. Provided further, however, he shall not give advice, nor render any legal services in connection with any matter coming within the jurisdiction of his Court.

As amended by:

Private Acts of 1949, Chapter 881

SECTION 11. That for the purpose of carrying out the provisions of this Act, W. Grady Sidwell is hereby appointed Judge of the Court of General Sessions of Clay County, Tennessee, to serve until the first day of September, 1950, and until his successor is elected and qualified.

That at the regular election in 1950, and each eight years thereafter there shall be a Judge of the General Sessions Court elected by the qualified voters of Clay County, Tennessee, who shall take office on the first day of September following, and shall hold office for a term of eight years and until his successor is elected and qualified.

SECTION 12. That if the Judge of said Court fails to attend, cannot preside in a pending cause, or for any reason fails to hold Court, then a majority of the attorneys present in 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. Such special Judges shall not be entitled to compensation for their services.

SECTION 13. 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.

SECTION 14. That the Clerk of the Circuit and Criminal Courts of said county shall act as Clerk of said Court of General Sessions and when acting as Clerk of said Court shall be designated "Clerk of the Court of General Sessions of Clay County, Tennessee." The fees, commissions, and emoluments of said Court of General Sessions shall accrue to said county. The Clerk of said Court shall receive as compensation for his services the sum of Six Hundred (\$600.00) Dollars per annum, payable in equal monthly installments, on the first of each month, out of the ordinary funds of said county, which shall be in addition to the fees and compensation now allowed by law.

The Clerk of said Court and his deputies shall have concurrent authority with the Judge to issue warrants and other processes and writs, other than those which the law requires shall be issued only by or upon the fiat of a judicial officer.

COMPILER'S NOTE: Chapter 285, Private Acts of 1949, was part of the basis for the suit of Clay County v. Stone (1961), 343 S.W.2d 863, 208 Tenn. 1 (1961), wherein the court ruled that the fees collected in the General Sessions Court should be counted as part of the fees of the Circuit Court Clerk to provide for the clerk's salary established in the Anti-Fee bill.

SECTION 15. 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 provided by law in the other inferior Courts.

SECTION 16. That the Judge of said Court shall adopt such rules as may be necessary to expedite the trial and disposition of cases. He shall also have the authority to appoint some officer to wait upon the Court and act as bailiff thereof, when the General Sessions Judge deems it necessary and no officer shall draw pay for said service unless approved by said General Sessions Judge, and shall have the same authority to preserve order in his Court and to punish for contempt of Court as is now given by law to Circuit Judges.

As amended by: Private Acts of 1949, Chapter 881

SECTION 17. 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 in which he had a right or interest in any proceeding, judgment or suit, whether said cause is disposed of or pending when this Act becomes effective.

SECTION 18. That at the time this Act becomes effective all of the official dockets and records and papers in cases that are disposed of, or that are undisposed of and pending, belonging to Justices of the Peace or former Justices of the Peace of Clay County, shall be delivered to the General Sessions Court as the successor of the said Justices of the Peace.

SECTION 19. That said Court shall have authority to hear and determine all undisposed of cases pending in the Courts of Justices of the Peace of Clay County as if such cases had originated in said Court of General Sessions, and shall have the power to issue executions on judgments rendered by Justices of the Peace.

SECTION 20. That the Legislature expressly declares that each section 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 portions shall be elided and the Legislature declares that it would have enacted this Act with such unconstitutional or invalid portions elided therefrom.

SECTION 21. That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: February 24, 1949.

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