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Chapter V - Court System

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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.

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Chapter V - Court System

Circuit Court

Public Acts of 1947 Chapter 138

SECTION 1. That regular terms of the Circuit Court of Cocke County, with general jurisdiction to try and dispose of civil and criminal cases, shall continue to convene and be held on the Fourth Monday in January, May and September of each year as now provided by law; and that, in addition to such regular terms, monthly terms of said Circuit Court shall convene and be held on the Fourth Monday of each and every month of the year, with jurisdiction to try and dispose of all civil cases within the jurisdiction of said Circuit Court as now defined by law, except cases in which a jury trial shall have been or shall be regularly demanded.

SECTION 2. That all leading process hereafter issuing from said Circuit Court in civil cases shall be made returnable to the next Fourth Monday of the month coming five or more days after the issuance of such process; and if, on the return day of such process, or in the first pleading tendering an issue, or on the first day of any term at which the case shall stand for trial, a jury trial shall be demanded, then the case shall automatically go over to the next regular term of said Circuit Court as distinguished from said monthly terms, and shall stand for trial in the regular way.

SECTION 3. That the jurisdiction of said Circuit Court at said monthly terms herein provided for shall be limited to the trial of non-jury cases, cases appealed from Justice of the Peace Courts, divorce cases and other cases involving domestic relations, equity cases coming within the jurisdiction of the Circuit Courts under the general law, and to the hearing and disposition of all issues and questions arising on demurrers, dilatory pleas, motions, and applications to amend pleadings in any civil case pending in said Court.

SECTION 4. That this Act shall be liberally construed and interpreted, and its provisions are hereby declared to be severable. If any of its sections, provisions, sentences or phrases are held to be unconstitutional or void, the remainder shall remain in full force and effect, it being the legislative intent now hereby declared that this Act would have been adopted and passed even if such unconstitutional or void matter had not been included herein.

SECTION 5. That all laws or parts of laws in conflict with this Act be and the same are hereby repealed.

SECTION 6. That this Act take effect from and after its passage, the public welfare requiring it.

Passed: March 5, 1947.

General Sessions Court

Private Acts of 1953 Chapter 316

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

Said County shall provide a courtroom at Newport, Tennessee, dockets, furnishings and necessary supplies for the equipment and maintenance of said Court, and pay for same out of the general funds of said County.

SECTION 2. That the Court of General Sessions is hereby vested with all the jurisdiction and shall exercise the authority conferred by the Legislature upon Justices of the Peace 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 elected for any district, except the district in which Newport is situated, 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, and may issue civil process on any cause of action heretofore triable by a Justice of the Peace, such warrants and process to be returnable to and triable by said Court of General Sessions. 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, or to administer oaths is in no wise affected by this Act.

SECTION 3. That before the issuance of any warrant in a civil case, the plaintiff shall secure the costs of executing a cost bond with good security in the sum of \$25.00, or by making a cash deposit of not less than \$2.00 or more than \$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.

It shall be the duty of the Clerk of such Court hereinafter provided for, not later than thirty days after judgments of the Court of General Sessions shall become final to issue an execution against the party against whom the costs thereof have been adjudged. Likewise, in case of the inability to collect the costs from such party against whom they have been adjudged, evidenced by the return of an execution nulla bona, it shall be the duty of the Clerk, not later than thirty days after the return of such execution, to undertake to collect from the successful party all costs accruing at the instance of such successful party.

SECTION 4. That the rules of pleading and practice, form of writs and process and stay of and appeals from judgments in civil cases of said Court shall be the same as of Justices of the Peace.

SECTION 5. 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 Warden and State Highway Patrolmen for the execution of writs and process of said Court, and the attendance and mileage of witnesses shall be the same in said Court as those provided by law for the Courts of Justices of the Peace.

The fees and compensation due for services rendered by said Court of General Sessions 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.

SECTION 6. That separate dockets shall be kept in said 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.

Also there shall be kept a criminal docket in which there shall be entered the disposition of all criminal cases disposed of by the Court of General Sessions, which docket shall show as to the misdemeanors now within the jurisdiction of Justices of the Peace under the Small Offense Law, the name of the defendant, the charge against him, and the disposition of the case. In cases in which Justices of the Peace do not now have jurisdiction under general law, the Clerk shall be under the duty to procure a minute book and in such minute book he shall enter the action of the Court by appropriate minute entry setting forth the name of the defendant, his arraignment upon the charge against him, his plea, his waiver of right of trial by indictment, information or presentment, his waiver of a jury trial and his consent to be tried by the Court of General Sessions upon such charge. Likewise, there shall be entered therein a judgment of the Court of General Sessions on the waiver of the defendant under subsequent provisions of this Act.

SECTION 7. That there shall be one judge for said Court with the same qualifications and term of office as provided by the Constitution of the State of Tennessee for inferior Courts.

The Judge of said Court as a condition precedent to his election need not be a licensed attorney.

The Judge of said Court shall also possess power to issue fiats for extraordinary process, returnable to the appropriate Court in which said is to be filed.

SECTION 8. That the compensation of said Judge shall be Four Thousand (\$4,000.00) Dollars per annum, payable in equal monthly installments. It shall be paid out of the ordinary funds of the County, and not be increased or diminished during the time for which said Judge is elected.

SECTION 9. That for the purpose of filling the vacancy occasioned by the creation of such judgeship, Edward W. Hughes is hereby designated and appointed as such Judge, who shall serve until September 1, 1954, and until his successor shall be elected and qualified. At the August election, 1954, there shall be elected by the qualified voters of Cocke County a Judge thereof who shall hold office until September 1, 1958, or until his successor shall be elected and qualified.

Thereafter, his successor shall be elected every eight years at such election for the term provided by law for Judges of Inferior Courts.

SECTION 10. That if the Judge of said Court fails to attend, cannot preside in a pending cause, or for any reason 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 take the same oath and have the same authority as a regular Judge to hold the Court for the occasion.

SECTION 11. 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 September 1st following the next regular August election, at which election said vacancy for the remainder of the term shall be filled by qualified voters of Cocke County.

SECTION 12. That for the more efficient conduct of said court there is hereby created the office of Clerk of the General Sessions Court, who upon election shall hold his office for a period of four years and until his successor shall be elected and appointed. To fill the vacancy occasioned by the creation of this office, the Judge of the General Sessions Court is empowered to appoint some qualified person as Clerk who shall hold office until September 1, 1954. At the August election 1954, there shall be elected by the qualified voters of counties to which this Act applies, a Clerk of the General Sessions Court for a term of four years. The Compensation of the Clerk of the General Sessions Court shall be Seven Thousand Six Hundred Dollars (\$7,600.00) per annum, payable in monthly installments out of the county treasury. All fees and emoluments of the office of Clerk are hereby divested out of the Clerk and shall become the property of the County. In case of a vacancy in the office of General Sessions Clerk, such shall be filled by appointment by the Judge and his appointee shall hold until the next regular election of County officers, at which time the qualified voters shall elect some person to fill the remainder of the unexpired term.

As amended by: Private Acts of 1983, Chapter 20

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

It shall be the express duty of the Clerk of said Court to keep all dockets required by this Act, to write all minute entries required herein and to promptly make any and all entries necessitated by this statute. In case of the failure or dereliction of the Clerk to do so, he shall be subject to discharge by said Judge of said Court of General Sessions of Cocke County.

It shall likewise be the duty of said Clerk to make and file with the County Court Clerk for transmission to each Quarterly Term of the County Court a complete detailed financial report of all receipts and disbursements of said Court of General Session for the previous quarter

As amended by: Private Acts of 1967-68, Chapter 221
Private Acts of 1969, Chapter 140
Private Acts of 1974, Chapter 140

SECTION 13. 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 14. 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 proceedings, judgment or suit, whether said cause is disposed of or pending when this Act becomes effective.

SECTION 15. That all of the official dockets, records and papers in cases that are undisposed of or pending in the office of Justices of the Peace of said County at the time this Act becomes effective shall be delivered to said Court of General Sessions. The official Dockets, records and papers in possession of Justices of the Peace of said County in cases which have been completed shall be turned over to said County, as provided by law.

SECTION 16. That said Court shall have authority to hear and determine all undisposed of cases arising in the Courts of Justices of the Peace of said County as if such cases had originated in said Court of General Sessions, and to issue executions on and orders concerning any unsatisfied judgments on the dockets of said Justices of the Peace, and certify as to any such Judgments or records, as such Justice of the Peace could do, but for this Act.

SECTION 17. That the Court herein established is hereby vested with full jurisdiction to try and determine and render final judgment in all misdemeanor cases brought before said Court upon Warrant wherein the person charged with such misdemeanor enters a plea of guilty or requests trial upon the merits and expressly waives in writing an indictment, presentment, grand jury investigation and jury trial. In such cases the trial shall proceed before the Court without the intervention of a jury, and the Court shall enter such Judgment and, as an incident thereto, may inflict such punishment, within the limits provided by law for the particular offense, as he may deem proper under the peculiar circumstances of such case, but nothing herein shall be construed as undertaking to grant such Judge the power to impose a fine in excess of \$50.00 upon any citizen of this State, and provided further that the Court herein created shall have no jurisdiction of the trial of misdemeanors for which the minimum punishment is a fine of more than \$50.00.

Any person aggrieved by the judgment of the Court of General Sessions having criminal jurisdiction rendered under the provisions of this Section may appeal such judgment to the next term of the Circuit Court of Cocke County upon executing an appearance bond, and likewise, executing bond for the amount of fine and costs or, in lieu thereof, taking the oath prescribed by law for paupers. Such appeal when

properly taken to the Circuit Court of Cocke County, shall be tried by the Judge of the Circuit Court without a jury and without indictment and presentment, upon the original warrant issued against such person.

The Judge of the Court of General Sessions herein created is expressly authorized to issue any and all process in connection with criminal cases disposed of by him under the provisions of this section necessary to effectuate the carrying out of the judgment rendered by him in such case.

SECTION 18. That the Legislature expressly declares that each section, subsection, 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 19. That this Act shall take effect thirty days after its passage, the public welfare requiring it.

Passed: March 24, 1953.

COMPILER'S NOTE: Private Acts of 1953, Chapter 316 was found constitutional in Freshour v. McCanless, 200 Tenn. 409, 292 S.W.2d 705 (1956).

Court System - Historical Notes

Board of Jury Commissioners - Jurors

The following acts once affected jurors or boards of jury commissioners in Cocke County, but are no longer operative. Also referenced below is an act which repeals prior law without providing new substantive provisions.

1. Acts of 1797, Chapter 7, required Cocke County to send four jurors to serve in the superior court of the Hamilton District.
2. Acts of 1903, Chapter 552, was the first private act creating a board of jury commissioners for Cocke County. Unlike most boards, this one only had two members, to be of different political parties, and to be appointed by the circuit and criminal court judges.
3. Private Acts of 1911, Chapter 146, was the next private act creating a board of jury commissioners for Cocke County, with the customary three members, appointed by the circuit and criminal court judges. While most of the provisions of this act were similar to those now found in the general law, one section did provide that service on a jury would not be a disqualification for further jury service for a period of two years. This section was repealed by an amendment found in Private Acts of 1935, Chapter 420.
4. Private Acts of 1947, Chapter 442, set the per diem of jurors at \$3.00.
5. Private Acts of 1949, Chapter 256, set the salary of the jury commissioners at \$4.00 per day for each day actually employed in the discharge of their official duties.
6. Private Acts of 1949, Chapter 257, set the per diem of jurors at \$4.00.
7. Private Acts of 1949, Chapter 343, provided that the foreman of the grand jury would receive a per diem of \$5.00.

Chancery Court

The following acts form an outline of the development of equity jurisdiction in Cocke County, although they no longer have the force of law since they have either been superseded by general law, repealed, or failed to receive local ratification.

1. Public Acts of 1824, Chapter 14, Section 8, fixed the time and place of holding the Cocke County Chancery Court to the third Mondays in May and November.
2. Private Acts of 1826, Chapter 90, set the terms of chancery court in Cocke County on the second Mondays in May and November.
3. Public Acts of 1827, Chapter 88, Section 3, fixed the time and place of holding the Cocke County Chancery Court to the third Mondays of May and November at Greenville in Greene County.
4. Public Acts of 1829-30, Chapter 27, altered the time of holding the chancery court for Cocke County to the second Mondays in May and November.
5. Public Acts of 1835-36, Chapter 4, established chancery courts for the state. The fifth chancery district was composed of the counties of Cocke, Jefferson and Sevier which was held at Dandridge on the first Mondays in April and October.
6. Acts of 1853-54, Chapter 127, provided that Cocke County would constitute a separate chancery

district and that chancery court would be held in Newport on the third Mondays in June and December. This was amended by Acts of 1855-56, Chapter 31, to change the terms of chancery court to the first Mondays in March and September.

7. Public Acts of 1857-58, Chapter 88, prescribed the times and places of holding the chancery courts in the state. The Cocke County Chancery Court was set for the first Mondays of March and September at Newport.
8. Public Acts of 1865-66, Chapter 41, changed the terms of chancery court to the Wednesday after the fourth Monday in February and August.
9. Private Acts of 1865-66, Chapter 129, provided that all the courts for Cocke County were to be held in Newport, until new public buildings could be constructed at the site of the new county seat, provided that the voters approved the removal of the county seat from Newport.
10. Public Acts of 1870, Chapter 32, divided the state into chancery districts. Cocke County was placed in the first chancery division along with Johnson, Carter, Washington, Sullivan, Hawkins, Greene, Hancock, Claiborne, Grainger, Jefferson, Powell and Hamblen.
11. Public Acts of 1870, Chapter 47, fixed the times for holding the chancery courts of the state. The Cocke County Chancery Court was set to the first Wednesdays after the fourth Mondays of February and August.
12. Public Acts of 1870-71, Chapter 72, provided that all courts for Cocke County were to be held at Newport Depot, otherwise called Clifton, in any suitable house. This act permitted the courts to adjourn from the "dilapidated Court House in Newport."
13. Public Acts of 1873, Chapter 32, was the last private act setting the dates of chancery court terms; this act provided that Chancery court in Cocke County would be held on the fourth Mondays in February and August.
14. Public Acts of 1891, Chapter 165, fixed the times of holding chancery court in the first chancery division. The chancery court of Cocke County was set to fourth Monday in February and August.
15. Public Acts of 1899, Chapter 427, divided the state into chancery divisions. The first chancery division was composed of Johnson, Carter, Sullivan, Washington, Unicoi, Greene, Hawkins, Hancock, Claiborne, Grainger, Hamblen and Cocke. The time for holding chancery court in Cocke County was set for the first Monday in June and December.

Chancery Court - Clerk and Master

The reference list below contains acts which once applied to the clerk and master in Cocke County. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1911, Chapter 69, set the salary of the clerk and master at \$900 per annum, to be paid out of the fees of that office. The clerk and master was required by this act to file an annual statement of the fees received by his office, and if the fees collected amounted to more than the salary provided by this act, the clerk and master could retain any excess. This was amended by Private Acts of 1917, Chapter 759, to raise the annual salary to \$1,000. Both of these acts were repealed by Private Acts of 1921, Chapter 887.
2. Private Acts of 1921, Chapter 887, in addition to specifically repealing the prior private acts setting the salary of the clerk and master in Cocke County, also provided that the clerk and master would be paid \$2,000 per annum, provided that he filed a quarterly statement of the fees received by his office with the county court clerk.
3. Private Acts of 1933, Chapter 789, lowered the salary of the clerk and master in Cocke County, perhaps in reflection of the depressed economic conditions throughout the country. This act provided that the maximum salary which could be received by the Cocke County clerk and master would be \$1,800 annually. This act was repealed by Private Acts of 1935, Chapter 747.
4. Private Acts of 1935, Chapter 747, again lowered the salary of the office of clerk and master in Cocke County, to \$1,500 annually, requiring a quarterly statement of fees received by the office, and providing that the clerk and master could retain any excess fees collected over and above the amount of his salary.

Circuit Court - Clerk

The following acts have no current effect, but once applied to the Cocke County Circuit Court Clerk. They were repealed, superseded, or never received local approval. Also referenced below is an act which repeals prior law without providing new substantive provisions.

1. Acts of 1855-56, Chapter 127, directed the secretary of state to furnish the Cocke County Circuit Court Clerk with copies of Yerger's Reports of the Tennessee Supreme Court decisions.

2. Public Acts of 1882 (3rd Ex. Sess.), Chapter 2, provided that the circuit and chancery court clerks were to receive from the secretary of state the reports of supreme court decisions through December 30, 1876.
3. Private Acts of 1917, Chapter 760, provided that the circuit court clerk was to receive an annual salary of \$1,000, payable from the fees of that office. The clerk was required to file an annual statement of the fees received by his office, and if they exceeded \$1,000, he could retain the excess. This was repealed by Private Acts of 1929, Chapter 74.
4. Private Acts of 1933, Chapter 791, set the salary of the circuit court clerk at \$1,800 annually.

Criminal Court

The following acts were once applicable to the circuit court of Cocke County but now have no effect, having been repealed, superseded, or having failed to win local approval.

1. Acts of 1809, Chapter 49, First Session, placed Cocke, Jefferson, Sevier, Blount, Knox, Anderson, Roane, Rhea and Bledsoe counties in the second judicial circuit, and this act also provided that the terms of circuit court in Cocke County would be held on the second Mondays in January and July.
2. Public Acts of 1835-36, Chapter 5, established circuit courts throughout the state. The second judicial district was composed of the counties of Cocke, Jefferson, Sevier, Blount, Knox, Campbell, Anderson and Morgan.
3. Public Acts of 1835-36, Chapter 19, Section 2, set the term of the circuit court of Cocke County to the first Monday in May and the second term of said court to the second Monday of September.
4. Acts of 1837-38, Chapter 3, changed the dates of circuit court terms in Cocke County to the third Mondays in April, August and December.
5. Acts of 1837-38, Chapter 116, changed the dates of the circuit court of Cocke County to the first Mondays in April, August and December.
6. Acts of 1847-48, Chapter 132, again changed the opening terms of the circuit court, to the third Mondays in March, July and November.
7. Acts of 1851-52, Chapter 352, provided that circuit court terms in Cocke County would be held on the first Monday after the fourth Mondays in March, July and November of each year.
8. Public Acts of 1857-58, Chapter 98, prescribed the times of holding the circuit courts of the state. The Cocke County Circuit Court was set to the first Mondays after the fourth Mondays of March, July and November.
9. Private Acts of 1865-66, Chapter 129, provided that all the courts for Cocke County were to be held in Newport, until new public buildings could be constructed at the site of the new county seat, provided that the voters approved the removal of the county seat from Newport.
10. Public Acts of 1870, Chapter 31, laid the state into judicial circuits. Cocke County was placed in the second judicial circuit, along with Jefferson, Grainger, Union, Sevier, Scott, Campbell, Claiborne and Hamblen counties.
11. Public Acts of 1870, Chapter 46, fixed the time of holding the circuit courts of the state. The circuit court of Cocke County was set for the fourth Mondays of March, July and November.
12. Public Acts of 1870-71, Chapter 72, provided that all courts for Cocke County were to be held at Newport Depot, otherwise called Clifton, in any suitable house. This act permitted the courts to adjourn from the "dilapidated Court House in Newport."
13. Acts of 1885 (Ex. Sess.), Chapter 20, placed Claiborne, Campbell, Grainger, Union, Hamblen, Jefferson, Cocke, Anderson and Sevier counties in the second judicial circuit.
14. Public Acts of 1899, Chapter 427, divided the state into judicial districts. The second judicial circuit was composed of the counties of Jefferson, Sevier, Grainger, Hamblen, Cocke, Morgan, Scott, Campbell, Anderson, Union and Fentress. The circuit court for Cocke County was set for the third Monday in February, June and October.
15. Acts of 1903, Chapter 227, set the terms of circuit court in Cocke County on the third Mondays in January, May and September.
16. Acts of 1905, Chapter 477, provided that circuit court terms in Cocke County would begin on the third Mondays in January, May and September.
17. Acts of 1907, Chapter 205, fixed the time of holding the circuit courts in the second judicial circuit. The circuit court of Cocke County was set to the third Mondays in January, May and September.
18. Public Acts of 1913, Chapter 13, Section 10, set the dates for holding the Cocke County Circuit

Court to the third Monday in January, May and September.

19. Private Acts of 1929, Chapter 345, set the dates for holding circuit court on the first Mondays in February, June and October.
20. Private Acts of 1935, Chapter 332, was a private act which amended the general law found in Public Acts of 1931 (Ex. Sess.), Chapter 38, to provide that circuit court in Cocke County would be held on the fourth Mondays in January, May and September.
21. Public Acts of 1947, Chapter 138, provided for the holding of monthly terms of the circuit court of Cocke County, for the trial and disposition of civil cases, and questions arising on demurrers, dilatory pleas, motion, and applications to amend pleadings; to regulate the issuance and return of process, issuing from said circuit court in civil cases.
22. Public Acts of 1951, Chapter 17, fixed the time of holding the circuit court of the second judicial circuit. The circuit court of Cocke County was set to the fourth Monday in January, May and September.
23. Public Acts of 1955, Chapter 19, fixed the time of holding the circuit court of the second judicial circuit. The time for holding the circuit court of Cocke County was set to the first Monday in January, May and September.

District Attorney General - Assistants and Criminal Investigators

The following acts once affecting Cocke County are no longer in effect but are listed here for historical purposes.

1. Acts of 1817, Chapter 65, created the third solicitorial district, to consist of the counties of Cocke, Jefferson, Sevier and Blount.
2. Public Acts of 1931, Chapter 64, created the office of assistant attorney-general for the second judicial circuit which were composed of the counties of Cocke, Grainger, Hancock, Jefferson, Sevier and Union. The act prescribed the qualifications and duties of such office and fix the compensation.
3. Public Acts of 1976, Chapter 611, amended Public Acts of 1939, Chapter 65, (not published herein), which provided for a criminal investigator for the second judicial circuit in Tennessee by removing the requirement from Chapter 65 that the criminal investigator be a practicing attorney.

Secretarial Assistance

The following act is no longer in effect but is listed here for historical purposes.

1. Private Acts of 1979, Chapter 140, authorized the general sessions judge of Cocke County to hire a secretary. The secretary of state's office has no information as to the ratification of this act.

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