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Private Acts of 1953 Chapter 316

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 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).

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