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Private Acts of 1961 Chapter 128

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 1961 Chapter 128

SECTION 1. That there is hereby created the office of Public Defender in the counties of this State having a population of not less than 399,700 nor more than 399,800 according to the Federal Census of 1960, or any subsequent Federal Census.

SECTION 2. That immediately upon the passage of this bill in all counties of this State having a population of not less than 399,700 nor more than 399,800, according to the Federal Census of 1960, or any subsequent Federal Census, the voters of such counties, at the next general election following the approval of this Chapter, shall elect a Public Defender who shall be a person licensed to practice law and who shall hold said office for a term of four years, commencing on September 1, 1962, and discharge the duties thereof as provided in this Chapter, and his successor shall be elected every four years thereafter. In the event of a vacancy in the office of Public Defender, the Quarterly County Court shall elect a Public Defender to serve until the next general election when a successor shall be elected by the vote of the people to fill the unexpired term.

SECTION 3. That

(a) Upon request by the defendant, or upon order of the Court, it shall be the duty of the Public Defender to defend, without expense, and to represent generally, all persons who are without means to employ counsel, who have been indicted by the grand jury or charged with the commission of any crime and he shall also upon request give counsel and advice to such persons in and about any charge against them upon which he is conducting the defense, and he shall prosecute all appeals to a higher court or courts of any person who has been convicted upon such charge, where, in his opinion, there is error in the conviction had, and such appeal will, or might reasonably be expected to result in the reversal or modification of the judgment of conviction;

(b) He shall have the power to employ one deputy or (sic) assistant at a salary not to exceed Five Thousand Dollars (\$5,000.00) per annum, and to employ one stenographer at a salary not to exceed Four Thousand Dollars (\$4,000.00) per annum, for the proper conduct of the business of his office and such salary shall be paid in equal monthly installments from the general fund of the county;

(c) He shall take and file the constitutional oath of office;

(d) He shall receive a salary of Eight Thousand Dollars (\$8,000.00) per annum, payable in equal monthly installments to be paid by the county in which he is elected, in the same manner as other county officers are paid;

(e) The Quarterly County Court in each of the counties in which the office of Public Defender is hereby created, shall provide suitable rooms for the use of the Public Defender, and office furniture and supplies for the proper conduct of the business of his office at the expense of the county;

(f) Every person who shall be appointed Assistant Public Defender or a Deputy Public Defender must be a counselor at law in this State and a citizen and resident of the county in which he is appointed. Every such appointment shall be made in writing and under the hand of the Public Defender, and filed in the office of the Clerk of the Criminal Court of the county in which such appointment is made, and the person so appointed shall take and file with the Clerk of the Criminal Court the constitutional oath of office before entering upon his duties. Every such appointment may be revoked at the pleasure of the Public Defender making same, which revocation shall be in writing and filed with the Clerk of the Criminal Court. Such Assistant or Deputy Public Defender may attend all criminal courts and discharge the duties imposed by law upon or required of the Public Defender by whom he was appointed. The Public Defender may designate in writing, to be filed in the office of the Clerk of the Criminal Court, his assistant to be acting Public Defender. The assistant designated shall, during such absence or disability of Public Defender, perform the duties of said office. Such designation may be revoked by the Public Defender in writing to be filed in the office of the Clerk of the Criminal Court; and

(g) The Public Defender shall not engage in the private practice of law, but may conclude all matters pending when elected.

SECTION 4. That this Act shall have no effect unless the same shall be approved by a majority of the voters voting in a county-wide general or primary election. At the first county-wide general or primary election after the passage of this Chapter it shall be the duty of the Commissioners of Elections of the counties to which this Act applies to announce or call that the primary or general election for the county shall include voting upon the acceptance or non-acceptance of this Chapter. The ballots or voting machines used in such election shall have printed thereon on succeeding separate lines the following:

"For creating the office of Public Defender

Against Creating the office of Public Defender"

with appropriate places for each voter to indicate his preference. The votes cast as such primary or general election shall be canvassed by the Commissioners of Elections of the county upon the first Monday occurring five or more days after the date of such election and the result shall be proclaimed by the Commission and certified by the Commission to the Secretary of State immediately after the votes have been canvassed as provided by law. The primary and/or general election laws, except as otherwise provided herein, shall apply in all respects to such election. In the event the Commissioners of Elections in such counties call a special county-wide election for any other purpose after this Chapter shall have been enacted, the said Commissioners of Elections shall issue a call to the voters to vote upon the acceptance or non-acceptance of this Chapter at such election in the way and manner provided above.

SECTION 5. That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: February 22, 1961.

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