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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

#### Clerk

### Private Acts of 1980 Chapter 190

**SECTION 1.** The Clerk of the Circuit Court of DeKalb County shall serve as Clerk for the Juvenile Court of DeKalb County. Such Clerk shall maintain a separate docket, a separate book and separate files for the Juvenile Court of DeKalb County. Such Clerk shall be vested with the authority and powers and shall perform all duties and functions necessary and incidental to serving as Clerk of the Juvenile Court of DeKalb County. The additional duties and functions imposed shall not be construed to entitle the Circuit Court Clerk to additional compensation.

**SECTION 2.** All other Private Acts, or portions thereof, which conflict with the provisions of this Act, are hereby expressly repealed, in whole or in part.

**SECTION 3.** This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of DeKalb County. Its approval or nonapproval shall be proclaimed by the presiding officer of the DeKalb County legislative body and certified by him to the Secretary of State.

**SECTION 4.** For the purpose of approving or rejecting the provisions of this Act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 3.

Passed: February 14, 1980.

### General Sessions Court

#### Creation

### Private Acts of 1949 Chapter 727

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

Said County shall provide a courtroom in the Town of Smithville, 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.

The Judge of the Court of General Sessions of DeKalb County, Tennessee, shall hold said Court in the courtroom so provided; and in his discretion the Judge of said Court may hold Court at such other places in said County and as often as is necessary to expedite the business of the Court.

**SECTION 2.** That the Court of General Sessions of DeKalb County, Tennessee, shall be and is hereby vested with all of the jurisdiction and shall exercise all of the authority conferred by the General Assembly of Tennessee 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 of said County may issue criminal and search warrants against and accept appearance bonds from any person charged with an offense in said County and shall be entitled to the legal fee authorized for said service under the Code of Tennessee. But all process issued by Justices of the Peace shall be returnable to the Court of General Sessions of DeKalb County, Tennessee.

The authority of said Justices of the Peace of DeKalb County, Tennessee, in their capacity as members of the Quarterly County Court or in the performance of the rites of matrimony, is in no wise affected by this Act.

**SECTION 3.** That before the issuance of any warrant in any civil case, the plaintiff shall secure the costs by executing a cost bond with good security in a sum not less than \$25.00, or by making a cash cost deposit of not less than \$5.00 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.

**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 when any defendant is brought before the Court of General Sessions of DeKalb County, Tennessee, charged with any crime or misdemeanor, it shall be the mandatory duty of the Judge of said Court to inform said defendant of his constitutional rights, and to advise him as to his right to employ and be represented by counsel and his right to make a statement or decline to make any statement, and to aid said defendant, insofar as it is necessary and reasonable, in contacting counsel and relatives or friends, and in procuring the attendance of his witnesses.

**COMPILER'S NOTE:** There was no Section 6 in the original act.

**SECTION 7.** That the Court of General Sessions for DeKalb County, Tennessee, is hereby vested with 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 DeKalb County, where such appeal shall be tried by a Judge of such Court without a jury, and without indictment or presentment.

That the jurisdiction of said Court shall be limited to that of a Justice of the Peace as now prescribed and fixed by law. Said Court shall not have authority to hear or entertain any matter beyond the scope or jurisdiction of a Justice of the Peace.

As amended by: Private Acts of 1953, Chapter 502

**SECTION 8.** 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 only 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 7 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 9.** That no warrant or information charging a person with an offense against the laws of the State shall be delivered to any peace officer for the arrest of such persons, except those issued by a Justice of the Peace as provided for in this Act, until after an entry in the Criminal Docket has been made by the Clerk, or the Judge, showing the names of the person or persons accused, the prosecutor, the officer to whom delivered, and his signature upon said docket showing receipt of such process. All of such warrants, information, dockets and other records of said Court of General Sessions shall be available to the District Attorney General for any legal purpose.

**SECTION 10.** That there shall be one Judge for said Court, and he shall be a resident of DeKalb County, Tennessee, and shall take the same oath as that prescribed for Circuit Judges and Chancellors. Nothing contained in this Act is to be construed as preventing the Judge of the Court of General Sessions, if a lawyer, from practicing in other Courts, but he may not appear as counsel in cases arising in his own Court.

As amended by: Private Acts of 1963, Chapter 83

**SECTION 11.** That the compensation of the Judge of the Court of General Sessions of DeKalb County shall be Twenty Four Hundred (\$2400.00) Dollars per annum, payable in equal monthly installments. Said salary shall be paid out of the general funds of the said County.

The salary of said Judge shall be paid from the fees reserved by law to the Judge of said Court.

As amended by: Private Acts of 1953, Chapter 502

**COMPILER'S NOTE:** See Tennessee Code Annotated Section 16-15-5003 for the current minimum compensation of General Sessions Judges.

**SECTION 12.** That for the purpose of carrying out the provisions of this Act, R. R. Fredeking of Smithville, Tennessee, is hereby appointed the first Judge of said Court and he shall serve until the next regular August election, 1950, at which time his successor shall be elected for a term of four years from and after September 1, 1950, and every eight years there- after. Said Judge shall take the same oath of office as other Judges of the Courts in the State as provided for by the Constitution.

As amended by: Private Acts of 1953, Chapter 502

**SECTION 13.** That if the Judge of said Court fails to attend, cannot preside in a pending case 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 Judge, and when elected he shall take the same oath and have the same authority as the regular Judge of said Court, to hold the Court and perform all of the duties of such Judge for the occasion.

**SECTION 14.** That in the case of vacancy for any cause, the Governor shall have the power to appoint some qualified person to fill such vacancy until the first day of September following the next biennial August election occurring more than thirty days after the vacancy occurs, or until his successor is qualified.

**SECTION 15.** That the Clerk of the Circuit Court of said County shall act as Clerk of the General Sessions Court and when acting as Clerk of said Court shall be designated "Clerk of the Court of General Sessions of DeKalb County, Tennessee." The Clerk of said Court shall receive as compensation for his services an amount not to exceed the sum of \$720.00 per annum, payable monthly out of the fees, commissions and emoluments of said Court. All fees in excess of \$60.00 per month, or \$720.00 per annum, shall be paid into the General Fund of said County. Provided, however, in order for said Clerk to receive his full compensation hereunder the fees, commissions and emoluments of said Court must be sufficient to pay the same.

The fees to be collected by the Clerk of this Court shall be the same as collected by the Justices of the Peace under Section 10707 of the Code of Tennessee.

Provided further, however, in the event said Clerk has not received his full compensation for the year but has paid into the General Fund of the County certain funds in excess of the amount to which he would be entitled to in any one month, said County shall refund to said Clerk such funds as to allow him his full compensation or part thereof.

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

Before entering upon the duties of his office the clerk of said General Sessions Court (Circuit Court Clerk) shall execute a good and solvent bond in the penal sum of Five Thousand (\$5,000.00) Dollars and upon his failure to execute such bond, to be approved by the General Sessions Judge, or to otherwise qualify for said office the Judge of the General Sessions Court is authorized and empowered to name and appoint some other and satisfactory person to perform the duties of the Clerk of General Sessions Court, and upon his appointment and qualifications, by executing the bond and otherwise qualifying, the person so named and appointed shall be vested with all the powers and authority now vested in the General Sessions Court Clerk.

**SECTION 16.** That separate dockets shall be kept in said Court for civil and criminal cases. Upon the civil dockets 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 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.

The Criminal Docket shall be kept in like manner.

**SECTION 17.** That the Sheriff of said County, or any deputy sheriff or constable thereof, shall serve legal process, writs and papers issued from said Court with the same authority as provided by law in regard to Justices of the Peace Courts.

**SECTION 18.** 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 19.** That all of the official dockets, records and papers in cases that are undisposed of or pending in the offices 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 that have been completed shall be turned over to said County, as provided by law.

**SECTION 20.** 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.

**SECTION 21.** That none of the provisions contained in this Act shall be construed to prohibit the Judge of

the Court of General Sessions of DeKalb County, Tennessee, from practicing law in the Chancery Courts, Circuit Courts, County Courts, and Appellate Courts of the State of Tennessee, except in cases having their origin in said Court of General Sessions of DeKalb County, Tennessee.

**SECTION 22.** That the General Assembly of the State of Tennessee 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 General Assembly of the State of Tennessee declares that it would have enacted this Act with such unconstitutional or invalid portions elided therefrom.

**SECTION 23.** That this Act shall take effect from and after April 15, 1949, the public welfare requiring it.  
Passed: April 13, 1949.

## Safety Program

### Private Acts of 1989 Chapter 121

**SECTION 1.** There is hereby created in DeKalb County a court of General Sessions Court administered safety program. The court administered safety program shall include but not be limited to a traffic school.

**SECTION 2.** The Judge of the Court of General Sessions is authorized and empowered to oversee the administration of the court administered safety program. There shall be established such financial accounts as are necessary to administer this program. Complete books and records of all fees received and all expenditures made shall be kept monthly.

**SECTION 3.** There is established a fee of ten dollars (\$10.00) for persons to enroll in the traffic school. Fees shall be collected by the DeKalb County Circuit Court Clerk or deputy clerk and paid directly to the county general fund within the time provided by statute. Such fees may be increased by resolution of the county commission.

**SECTION 4.** A budget for the court administered safety program shall be compiled annually and submitted to the budget and finance committee and the county commission for approval at the appropriate time.

**SECTION 5.** All funds collected pursuant to this act shall be allocated to the court administered safety program and may only be expended for purposes reasonably related to the effectuation of this act.

**SECTION 6.** If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

**SECTION 7.** This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of DeKalb County. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body and certified by him to the Secretary of State.

**SECTION 8.** For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective and retroactive to June 1, 1989.

Passed: May 25, 1989.

## Court System - Historical Notes

### **Board of Jury Commissioners - Jurors**

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

1. Private Acts of 1915, Chapter 605, was the first act creating a Board of Jury Commissioners for DeKalb County. A three member Board would be appointed by the Circuit Judge for a one year term. The Board would select jurors from the tax books of the county.
2. Private Acts of 1919, Chapter 800, set the compensation of jurors at \$2.50 per day. This was amended by Private Acts of 1921, Chapter 340, to raise the compensation of jurors to \$3 per day

plus mileage at the rate of \$.05 per mile.

3. Private Acts of 1921, Chapter 366, provided that the Quarterly County Court would appoint the jurors to serve at the next succeeding Court.
4. Private Acts of 1923, Chapter 218, created a Board of Jury Commissioners for DeKalb County. A three member Board would be appointed by the Circuit Judge for a two year term.
5. Private Acts of 1925, Chapter 171, provided that the County Court would appoint the jurors who served in Circuit Court and that no person could be appointed who had served in the past two years.
6. Private Acts of 1925, Chapter 641, exempted DeKalb County from the general law provision regarding the appointment of grand jury foremen by Criminal and Circuit Judges having criminal jurisdiction.
7. Private Acts of 1927, Chapter 200, provided that the Circuit Court Clerk would select the names from each civil district from which the names would be drawn by a blindfolded person to form the necessary jurors.
8. Private Acts of 1931 (Ex. Sess.), Chapter 69, set the daily compensation of jurors at two dollars per day served.
9. Private Acts of 1933, Chapter 575, authorized the County Judge to appoint a three member Jury Commission who would supervise the selection of jurors in DeKalb County for a period of two years. This was repealed by Private Acts of 1941, Chapter 534.
10. Private Acts of 1941, Chapter 533, created a three member Board of Jury Commissioners, appointed by the County Judge, to hold office for two years. The Board would select from the tax rolls, five men, one from each civil district in the county. A child would draw from the selected names 40 names to serve as jurors. This Act was of questionable validity as DeKalb County did not fall into the enumerated population class. However, the Act was attributed to DeKalb County.

### **Chancery Court**

The following acts form an outline of the development of equity jurisdiction in DeKalb 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. Acts of 1839-40, Chapter 2, in establishing DeKalb County attached the county to the Chancery district composed of Smith County. The court would be held at Carthage.
2. Acts of 1839-40, Chapter 66, Section 2, provided that the citizens of DeKalb County could file their bills in chancery or be sued in the Chancery Courts at Carthage or McMinnville.
3. Acts of 1843-44, Chapter 151, established a Chancery Court in DeKalb County which would be held in the court house in Smithville on the third Mondays of March and September.
4. Acts of 1853-54, Chapter 123, set the term of the DeKalb County Chancery Court for the fourth Monday in March and September, at Smithville.
5. Acts of 1857-58, Chapter 88, set the times for holding Chancery Courts throughout the State. In the Fourth Division, which contained DeKalb County, court would be held on Thursdays after the third Monday of March and September, at Smithville.
6. Acts of 1859-60, Chapter 116, changed the time for holding Chancery Court at Smithville to the third Mondays in March and September.
7. Acts of 1885 (Ex. Sess.), Chapter 20, placed DeKalb County in the Fifth Chancery Division and set the dates for holding court on the third Mondays in February and August.
8. Acts of 1891 (Ex. Sess.), Chapter 11, changed the time for holding Chancery Court in the Fifth Chancery Division. DeKalb County would hold court on the first Tuesday after the second Mondays in February and August.
9. Acts of 1897, Chapter 294, changed the time of holding Chancery Court to the second Monday after the fourth Monday in April and October.
10. Acts of 1903, Chapter 97, changed the times for holding Chancery Court in the Fourth Chancery Division. DeKalb County, which was now in the Fourth Division, would hold court on the second Monday in May and fourth Monday in November.
11. Acts of 1905, Chapter 120, changed the times for holding Chancery Court in the Fourth Chancery Division. DeKalb County remained on the second Monday in May and fourth Monday in November.

12. Acts of 1911, Chapter 507, changed the times for holding Chancery Court in the Fourth Chancery Division. DeKalb County remained on the second Monday in May and the fourth Monday in November.

### **Chancery Court - Clerk and Master**

The reference below contains an act which once applied to the clerk and master in DeKalb County.

1. Private Acts of 1917, Chapter 590, set the salary of the Clerk and Master at \$1,000 per year with the provision that if the fees of his office did not amount to this sum, the county would pay the difference. If the fees exceeded the salary, they would be retained by the Clerk and Master.

### **Circuit Court**

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

1. Acts of 1837-38, Chapter 116, set the time of holding Circuit Court in DeKalb County on the second Mondays of April, August and December. DeKalb County was made a part of the Thirteenth Circuit.
2. Acts of 1839-40, Chapter 2, which re-enacted the establishment of DeKalb County, placed DeKalb County in the 13th Judicial Circuit which would hold court on the first Mondays of January, May and September.
3. Acts of 1839-40, Chapter 21, attached DeKalb County to the Fourth Judicial Circuit, with court to be held on the second Mondays in April, August and December.
4. Acts of 1841-42, Chapter 8, provided that Circuit Court in DeKalb County be held on the first Mondays in April, August and December.
5. Acts of 1845-46, Chapter 82, changed the time for holding Circuit Court to the first Mondays in February, June and October.
6. Acts of 1849-50, Chapter 213, provided that the Circuit Court in DeKalb County be held on the third Mondays in April, August and December. The Circuit Court would be held by the Judge of the Criminal Court of Davidson County. DeKalb County would remain part of the 4th Solicitorial District.
7. Acts of 1851-52, Chapter 40, provided that the Judge of the Fourth Judicial Circuit rather than the Judge of the Criminal Court of Davidson County should conduct Circuit Court in DeKalb County.
8. Acts of 1872 (Ex. Sess.), Chapter 15, set the time for holding court in DeKalb County on the second Mondays of March, July and November. DeKalb County was now part of the Fifth Judicial Circuit.
9. Acts of 1877, Chapter 116, changed the time of the November term of Circuit Court from the second Monday to the first Monday of that month.
10. Acts of 1879, Chapter 130, set the time for holding Circuit Court of DeKalb County on the second Mondays of March, July and November.
11. Acts of 1885 (Ex. Sess.), Chapter 20, placed DeKalb County in the Sixth Judicial Circuit, with court to meet on the first Tuesdays after the second Mondays in March, July and November. This was amended by Acts of 1887, Chapter 8, to provide that Circuit Court meet on the third Mondays in March, July and November.
12. Acts of 1889, Chapter 214, changed the time for holding Circuit Court in DeKalb County to the second Monday in March and November.
13. Acts of 1891, Chapter 208, set the meeting time of Circuit Court on the second Mondays of March, July and November, so as to provide for three Circuit Courts in DeKalb County.
14. Acts of 1895, Chapter 97, changed the time for holding Circuit Court to the third Mondays in March, July and November.
15. Acts of 1903, Chapter 580, provided that Circuit Court in DeKalb County was to be held on the first Tuesdays after the second Mondays in March, July and November. DeKalb County was now part of the Seventh Judicial Circuit.
16. Acts of 1905, Chapter 269, set the time for Circuit Court meeting on the first Tuesdays after the second Mondays in April, August and November.

### **Circuit Court - Clerk**



The following acts have no current effect, but once applied to the DeKalb 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 1911, Chapter 626, set the salary of the Circuit Court Clerk at \$1,000 per year with the County to pay the difference between this sum and a lesser amount collected in fees. Any fees in excess of the salary could be retained by the Clerk.
2. Private Acts of 1927, Chapter 691, provided that the Circuit Court Clerk receive all the fees from their office with additional compensation from the County, if necessary, to make a total of \$1,000 per year. This Act was repealed by Private Acts of 1933, Chapter 273.

**District Attorney General - Assistants and Criminal Investigators**

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

1. Public Acts of 1975, Chapter 221, Public Acts of 1976, Chapter 510, and Public Acts of 1978, Chapter 768, created additional positions for assistant district attorneys general and criminal investigators for the Seventh Judicial Circuit. DeKalb County is now part of the Thirteenth Judicial Circuit according to T.C.A. 16-2-506, which also provides the number of judges, assistant district attorneys general and investigators for the district.

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