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Private Acts of 1949 Chapter 727

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 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 thereafter. 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.

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