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# General Sessions Court

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# General Sessions Court

## Private Acts of 1941 Chapter 6

**COMPILER'S NOTE:** Private Acts of 1943, Chapter 37, which follows this act, made broad amendments to Private Acts of 1941, Chapter 6, and should be read in conjunction with this act.

**SECTION 1.** (a) That there is hereby created and established a court in and for Hamilton County, Tennessee, which shall be divided into three (3) divisions: one of which shall be designated Court of General Sessions, Division I, of Hamilton County, Tennessee; another, Court of General Sessions, Division II, of Hamilton County, Tennessee; and the other, Court of General Sessions, Division III, of Hamilton County, Tennessee. The Court shall be held in Chattanooga, and Hamilton County shall provide court rooms, dockets, furnishings and necessary supplies for the equipment and maintenance of said court, and pay for same out of the ordinary funds of said County.

(b) Effective September 1, 1996, there is hereby created Division IV and Division V of the General Sessions Court of Hamilton County. Judges to fill such new divisions shall be appointed by the County Commission of Hamilton County by September 1, 1996.

(c) Persons initially appointed to the position of General Sessions Court Judge for each of the new divisions created by subsection (b) shall serve until September 1, 1998, or until their successors are elected and qualified. At the regular August election in 1998 and every eight (8) years thereafter, the qualified voters of Hamilton County shall elect a person to serve as judge of Division IV and Division V for a full eight (8) year term. Such elections shall be nonpartisan. Candidates for the position of judge of such new divisions shall qualify for a specific division as provided in Section 13, as amended. The winning candidate for each new division shall also be determined in the manner set out in Section 13, as amended, and all candidates shall possess the same qualifications as required by Section 11, as amended, for the judges of the three (3) present divisions. A vacancy in the office of judge of Division IV or Division V shall be filled for the unexpired term as provided by general law.

(d) The judges of Divisions IV and V of the General Sessions Court of Hamilton County shall have the same powers, duties, responsibilities, jurisdiction, authority, and shall be paid the same compensation in the same manner and with the same restrictions as the judges of the three (3) present divisions of general sessions court. Supplies, courtrooms, furnishings and other necessary equipment shall be furnished the judges of such new divisions in the manner provided by subsection (a) of this section.

As amended by: Private Acts of 1996, Chapter 192

**SECTION 2.** That the jurisdiction, powers and authority of said Court shall be co-extensive with Hamilton County and shall be the same as provided by law for Justices of the Peace in Civil and Criminal actions; and the Justices of the Peace of Hamilton County are hereby divested of all such jurisdiction, powers and authority. 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, is in no wise affected by this Act.

**SECTION 3.** That the Court of General Sessions is hereby vested with the 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 Criminal Court of Hamilton County, where such appeal shall be tried by a Judge of such Court without a jury, and without indictment or presentment.

**SECTION 4.** That it shall be the mandatory duty of the Judges 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 by presentment or indictment by a Grand Jury and the right to be tried by a Jury of his peers, such Courts may proceed to hear and determine said case as is provided in Section 3 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 5.** One of the Judges shall be available at all times for the issuance of criminal and civil warrants, the examination and hearing of persons charged with any criminal offense, the taking and filing bail for the appearance of the accused, or ordering their discharge or commitment to prison, as required by law.

As amended by: Private Acts of 1951, Chapter 119

**SECTION 6.** That before the issuance of any warrant in a civil case, the plaintiff shall execute a cost bond with good security in the sum of \$25.00, or in lieu thereof, make a cash deposit with the Clerk of not less than \$2.50, or more than \$25.00, to secure the costs, or take the oath prescribed for poor persons, and on motion, the Court may increase the security.

**SECTION 7.** That the laws now regulating pleading and practice, stay of judgments, writs and processes in civil cases in the Courts of Justices of the Peace, shall apply to and govern said Court; and all of the statutes regulating the conduct of Justices of the Peace in civil and criminal cases shall apply to the Judges of said Court.

Any party may appeal from an adverse decision to the Circuit Court of Hamilton County, within a period of ten (10) days upon complying with the law as now provided for appeals from Justices of the Peace courts, provided, that within such time a motion for re-hearing may be filed which shall be heard by the Court as soon as practicable, and the judgment rendered thereon shall be considered the final judgement from which an appeal may be taken within a ten-day period. No execution shall issue until the expiration of ten days from the date of final judgment.

**SECTION 8.** That the Judges of said Court shall adopt such rules as may be necessary to expedite the trial and disposal of cases; and the Clerk by order shall equalize and assign the business of the Court among the divisions thereof. All process shall be returnable to the First Monday following the fifth day after service or [sic] process thereof.

**SECTION 9.** 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 Wardens, and State Highway Patrolmen for the execution of writs and processes of said Court and fees for attendance and mileage of witnesses shall be the same in said Court as those provided by law for the Courts of the Justices of the Peace.

The fees and compensation, due for services rendered by the Court, shall accrue to the respective Clerks of the Court. Said costs, fees and mileage of witnesses, the fees and commissions and emoluments of the sheriff, his deputies, constables, Game Wardens and State Highway Patrolmen for services to said Court, and the fines and forfeitures adjudged by it shall be paid to the respective clerks, and handled, accounted for, and disbursed as required by law.

**SECTION 10.** That there shall be one civil docket and one criminal docket for the Court in which all cases shall be entered immediately upon the issuance of the warrant. Upon said dockets shall be entered the style and number each case, the date of the issuance of the warrant or process, the name of the officer to whom delivered, the return of the process in brief form, the action of the Court both interlocutory and final, orders, judgments, executions, garnishments, lists of fees of Court, of the sheriff and all other officers for their respective services, fees of witnesses for attendance, credits for payments upon judgments and upon costs, and the Division of the Court in which, and the Judge by whom, the case was disposed of. There shall be a direct and cross index of each case in the civil docket and a direct index giving the name of the defendant on the criminal docket, so as to provide ready access to the record of each case.

The judgment of the Court shall be entered both on the warrant and docket and signed by the trial judge.

On the criminal docket there shall be kept a column wherein the criminal warrant is charged to the officer taking out the warrant, and the officer, who receives the warrant, shall give a receipt for same. No warrant, criminal or civil, shall be taken from the office of said Court until its issuance has been properly entered on said respective dockets.

**SECTION 11.** That there shall be one judge for each division of said Court with the same qualifications and terms of office as provided by the Constitution of the State of Tennessee for inferior courts; and such Judges shall take the same oath as that prescribed for Circuit Judges and Chancellors.

**SECTION 12.** That the compensation of each judge shall be an annual amount equal to the annual compensation of the Chancellors, Circuit and Criminal Court Judges holding court for the State of Tennessee in Hamilton County, such compensation to be payable in bi-weekly installments out of the ordinary funds of the county. The judges shall give all of their working time to the duties of the office and shall not engage as attorney in the practice of law.

As amended by: Private Acts of 1949, Chapter 475  
Private Acts of 1953, Chapter 25  
Private Acts of 1955, Chapter 257  
Private Acts of 1957, Chapter 394  
Private Acts of 1967-68, Chapter 159  
Private Acts of 1971, Chapter 135  
Private Acts of 1967-68, Chapter 71,  
Private Acts of 1970, Chapter 204,  
Private Acts of 1985, Chapter 14  
Private Acts of 1987, Chapter 106

**SECTION 13.** That the first three judges of said Court shall be elected by the qualified voters of the County, at the regular election for judicial and other civil officers on the first Thursday of August, 1942, and they shall hold office from the first day of September, 1942, for the regular term of eight (8) years.

Any person who seeks election to the office of general sessions judge in Hamilton County after the effective date of this act shall qualify with the Election Commissioners of Hamilton County as required by law in general elections and shall designate to such commissioners the division of general sessions court to which he seeks to be elected. Such candidate's name shall appear on the official ballot by the division of general sessions court previously designated and the candidate who shall receive the highest number of votes cast for judge of that division of such court shall be declared elected.

As amended by: Private Acts of 1984, Chapter 176

**SECTION 14.** That if the Judge of a division of said Court fails to attend, cannot preside in a pending cause, or for any reason fails to hold Court, and if the Judge of any other division cannot sit by interchange, then 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 have the same authority as a regular judge to hold the court for the occasion. The Clerk of either Circuit or Criminal Courts shall preside at said election and shall keep in his office a permanent record of the election of such special judges. Such special judges shall not be entitled to compensation for their services.

**SECTION 15.** That the judges of the five divisions of said Court may interchange with each other, when necessary, or where such interchange is for the mutual convenience, or in case of sickness, absence or other disability on the part of any such judge to hold his court, and in the case of a vacancy for any cause, either of the other judges may hold court in the division in which the vacancy exists. The Governor shall have the power to appoint some qualified person to fill such vacancy.

As amended by: Private Acts of 1996, Chapter 192

**SECTION 16.** [This entire section was rewritten by Private Acts of 1953, Chapter 26, which was subsequently repealed by Private Acts of 1967-68, Chapter 302, which provided no new provisions for this section].

**SECTION 17.** That this Act shall in no wise impair the right, title or interest of any Justice of the Peace of Hamilton County to any unpaid fees, or funds in which he had a right or interest in any proceeding, judgment or suit, whether said cause is disposed of or pending when this Act becomes effective.

**SECTION 18.** That at the time this Act becomes effective all of the official dockets and records and papers in cases that are disposed of, or that are undisposed of and pending, belonging to Justices of the Peace or former Justices of the Peace of said County, shall be delivered to the General Sessions Court as the successor of the said Justices of the Peace.

**SECTION 19.** That said Court shall have authority to hear and determine all undisposed of cases pending in the courts of Justices of the Peace of Hamilton County as if such cases had originated in said Court of General Sessions, and shall have power to issue executions on judgments rendered by Justices of the Peace.

**SECTION 20.** That the Legislature expressly declares that each section of this Act is severable, and that should any portion of this Act be held unconstitutional or invalid, the same shall not effect the remainder of this Act, but such unconstitutional or invalid portions shall be elided, and the Legislature declares that it would have enacted this Act with such unconstitutional or invalid portions elided therefrom.

**SECTION 21.** That this Act take effect as to the election of judges thirty (30) days before the first Thursday in August, 1942, and shall become in full force and effect on the first day of September, 1942, the public welfare requiring it.

Passed: January 9, 1941

## Private Acts of 1943 Chapter 37

**SECTION 1.** That Chapter 6 of the Private Acts of the General Assembly of the State of Tennessee, for the year 1941, being an Act to create a Court of General Sessions for Hamilton County, Tennessee, and providing its powers and jurisdiction be amended in the following particulars:

**SECTION 2.** That Section 2 of said Act be amended so as to provide that the jurisdiction and powers of said Court shall be co-extensive with Hamilton County, and shall extend to all claims and demands of whatsoever nature of \$1,000.00 or less in value.

**SECTION 3.** That Section 6 of said Act be amended so as to provide, that before the commencement of any civil action the plaintiff shall pay to the Clerk of the Civil Division of the Court an amount sufficient to cover the fees for the issuance of the original Summons, Writs of Attachment, Replevin or Unlawful and Forcible Entry and Detainer, Rendition of Judgment and a Fee for the serving of the process, such costs to be estimated by the Clerk of the Court.

When and in the event costs are collected from the defendant the plaintiff or the party to whom entitled shall thereupon be refunded the same; provided, however, that any resident of the State may commence and prosecute an action who is eligible to take and subscribe to the oath provided for poor persons.

**SECTION 4.** That Section 7 or [sic] said Act be amended so as to provide that any party may appeal from an adverse decision to the Circuit Court of Hamilton County within a period of five days upon complying with the law as now provided for appeals from Justice of the Peace Courts, provided within said time a motion to re-hear may be filed, which shall be heard by the Court as soon as practical, and judgement from which an appeal may be taken within a two day period. No executions shall issue until the expiration of five days from date or original judgment, where no motion for re-hearing has been filed within said time. No execution shall issue where motion for re-hearing has been filed until two days after the action on the motion to re-hear.

Stay of judgment or execution may be entered at any time within five days of the original judgment, and within two days of final action on motion to re-hear.

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

Passed: January 18, 1943.

## Private Acts of 1996 Chapter 192

**COMPILER'S NOTE:** Sections 1 and 2 are amendments to the Private Acts of 1941, Chapter 6, which have been incorporated into the 1941 Act, included in this publication. Section 3 is also an amendment to the 1941 Act, but does not specifically state where the amendment is to be made within the original act ; therefore, Section 3 and the remainder of the Private Acts of 1996, Chapter 192, are published in full herein.

**SECTION 3.** (a) To assist the general sessions court, the county legislative body may appoint one (1) or more judicial commissioners. The duties of a judicial commissioner shall include, but not be limited to the following:

- (1) Issuance of arrest and search warrants upon a finding of probable cause in accordance with the procedures outlined in Tennessee Code Annotated, Title 40, Chapters 5 and 6;
- (2) Issuance of mittimus following compliance with the procedures prescribed by Tennessee Code Annotated, § 40-5-103;
- (3) Appointing attorneys for indigent defendants in accordance with applicable law and guidelines established by the presiding General Sessions Judge of the County; and
- (4) Setting and approving bonds and the release on recognizance of defendants in accordance with Tennessee Code Annotated, Title 40, Chapter 11.

(b) The term of office for a Judicial Commissioner shall be established by the County Legislative Body, but such term shall not exceed four (4) years. A member of the County Legislative Body is not eligible for appointment as a Judicial Commissioner.

(c) A Judicial Commissioner shall be compensated from the general fund of the county in an amount to be determined by the County Legislative Body. Fees established and authorized by § 8-21-401 shall be paid to the county general fund upon the services detailed therein being performed by a Judicial Commissioner.

**SECTION 4.** 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 5.** This act shall have no effect unless it is approved by a majority of the number of qualified

voters of Hamilton County voting in an election on the question of whether or not the act should be approved. The ballots used in the regular August election to be held on August 1, 1996, shall have printed on them the substance of this act and the voters shall vote for or against its approval. The votes cast on the question shall be canvassed and the results proclaimed by the County Election Commissioners and certified by them to the Secretary of State as provided by law in the case of general elections. The qualifications of voters voting on the question shall be the same as those required for participation in general elections. All laws applicable to general elections shall apply to the determination of the approval or rejection of this act.

**SECTION 6.** For the purpose of approving or rejecting the provisions of this act, as provided in Section 3, it shall be effective upon becoming a law, the public welfare requiring it. Provided, however, the ratification procedure established by this act shall not be utilized if the Hamilton County Legislative Body has approved by a two-thirds (2/3) vote by June 1, 1996, the provisions of either Private Chapter \_\_\_\_ (Senate Bill 3262 House Bill 3271) or Private Chapter \_\_\_\_ (Senate Bill 3252 House Bill 3272). For all other purposes, the provisions of the act shall be effective only upon being approved as provided in Section 3.

Passed: April 25, 1996.

## Service of Process

### Private Acts of 1996 Chapter 158

**SECTION 1.** In the General Sessions Courts in Hamilton County, civil process may be served as provided in Rules 4 and 5 of the Tennessee Rules of Civil Procedure.

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

**SECTION 3.** 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 2.

Passed: March 27, 1996.

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