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Private Acts of 1945 Chapter 489

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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.

Sincerely,

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Private Acts of 1945 Chapter 489

SECTION 1. That there is hereby created and established in and for Hamilton County, Tennessee, a Court with the title and style of the Juvenile Court of Hamilton County, Tennessee. Such Court shall be a Court of Record, presided over by a Judge who shall have the qualifications hereinafter set out, and who shall be appointed or elected as hereinafter provided, and whose salary shall be provided and paid as hereinafter provided. Such Judge shall be known and have the title of Judge of the Juvenile Court of Hamilton County, and shall devote his full time to the duties of such office of Judge, and shall have no other active business or professional activity; that there is hereby created the Office of Clerk of said Court; that said Court shall have a Seal, and that the Judge and Clerk, within their respective functions as such officers of said Court, shall have the power and authority to administer oaths and affirmations whenever the same are required by law in connection with any case, procedure, process or otherwise in such Court.

SECTION 2. That, when used in this Act, unless the context otherwise requires:

- (a) "The Court" shall mean the Juvenile Court of Hamilton County.
- (b) "The Judge" shall mean the Judge of the Juvenile Court of said County.
- (c) "Child" shall mean any person who is under the age of seventeen years.
- (d) "Adult" shall mean a person who is seventeen years of age or older.
- (e) "County" shall mean Hamilton County in the State of Tennessee.
- (f) "Peace Officer" shall mean the Sheriff of Hamilton County or any of his Deputies, any Constable of said County and any Police or Truant Officer of any Municipal Corporation in said County.
- (g) The singular shall include the plural, the plural the singular, and the masculine the feminine, when not inconsistent with the intent of this Act.

SECTION 3. That the Court shall have exclusive original jurisdiction in said County of all cases arising in or triable in said County of any persons under the age of seventeen (17) years who may, by reason of any offense committed against the State except wherein the offense charged is an offense for which capital punishment may be inflicted; but any such case which may come before the Court wherein any person under seventeen (17) years of age is charged with murder in the first degree or rape or any other capital offense, the Court shall certify the same to the Court of General Sessions, which Court shall conduct a preliminary hearing to determine whether there is probable cause to believe the accused is guilty of the capital offense; and, if the Judge of the Court of General Sessions shall find that there is probable cause to believe that the accused is guilty of the capital offense the accused shall be bound over to the Grand Jury, and the case shall proceed in the Criminal Court. However, if the Sessions Court shall find that there is not probable cause to believe that the accused is guilty of the capital offense, as murder in the first degree, or rape, or such other capital offense, then the Court of General Sessions shall certify the case back to the Juvenile Court, and the Court will proceed to hear the case or to investigate the same as to whether the accused is guilty of some lesser and included offense, such as murder in the second degree, manslaughter or lesser offense, or some lesser offense included in the charge of rape or such other capital offense, and, in such case the Court shall proceed as in any other case wherein a person under seventeen (17) years of age is involved. It is the sense and intention of this Section of this Act to give to such Juvenile Court all the jurisdiction of a Juvenile Court in Hamilton County contemplated by the laws of Tennessee, and the Court shall have all of the jurisdiction, powers and authority of a Juvenile Court in said County contemplated in the laws of Tennessee as stated in Sections 10269 and 10309 of the Code of Tennessee and any other general laws of the State of Tennessee now in force and effect or hereinafter to become of force and effect; and said Court shall have exclusive original jurisdiction of all non-support and abandonment cases, wherein any person is charged with the non-support of any child under sixteen (16) years, or of his wife, or is charged with the abandonment of such child or wife and leaving the State of Tennessee, as provided by the laws of the State of Tennessee; and the Court shall have exclusive original jurisdiction:

1. Concerning any child within said County, or any case arising or triable in said County, concerning any child;
 - (a) Whose parent or other person legally chargeable with the care and support of such child neglects or refuses, according to his means or ability, to provide proper or necessary support, education, medical or surgical or other necessary care as contemplated by the general laws of the State, or who is abandoned by his parent or other person having the legal charge and care of such child;

(b) Whose occupation, behavior, environment or associations are injurious to the welfare of the child;

(c) Who deserts his home or is habitually disobedient or beyond control of parent or teacher or other lawful custodian;

(d) Who, being required by law to attend school, wilfully violates the rules of school or absents himself therefrom, or who in any other manner shall be charged with or designated as a delinquent as delinquent is defined, contemplated or included in the laws of the State of Tennessee.

2. To determine the custody or guardianship of the persons of any child in said County or in connection with whom any question, case or controversy may arise in said County, or any such question, case of controversy which by the general law, is triable in said County.

3. That such Court shall have original jurisdiction, concurrent with other Courts having such jurisdiction, for and in the adoption of children and for granting judicial consent to the marriage of any child when such consent is required by law;

4. That, whenever it shall be determined by the Judge of the Juvenile Court that a child is so mentally defective or mentally disordered that such child should be committed to an institution for such cases, the Court may commit such child to such institution as is fitted to care for such cases and wherein the Court is authorized so to do by provision of the general law, or to such institution otherwise made available to it through arrangements with the County or State authorities; and, where no such institution is made available to the Court, the Judge shall certify the facts and the need to such authority as may have such child committed and shall, if it is the opinion of the Judge that such care is needed, recommend the commitment of such child.

In any case within the jurisdiction of the Court, if the defendant is entitled to a trial by jury and shall demand it, or shall not waive trial by jury as provided by law, the jurisdiction of the Court shall be limited to that of a Committing Magistrate.

Nothing contained in this Act is in any wise intended to attempt to deprive any other Court, such as the Circuit, Criminal or Chancery Court, of any right, by habeas corpus to determine the custody or guardianship of children as is now provided by law and practiced by such Courts.

SECTION 4. That there is hereby created a Humane and Juvenile Court Commission of said County composed of twelve (12) members who shall have been bona fide residents of said County for the last three (3) years prior to their appointment and confirmation, who shall serve without compensation and who shall be at least thirty (30) years of age. Four (4) members of said Commission shall be appointed for a period of two (2) years, four (4) for a period of three (3) years, and four (4) for a period of four (4) years, and each of the members of the Board shall serve until his successor is appointed and confirmed. The first Commission shall consist of the following named persons, to-wit:

Phil B. Whitaker, S. K. Johnston, Mrs. Thorne Sparkman, and A. C. Kamin, who are appointed for a period of two (2) years;

Mrs. W. C. Cate, Robert Rethmeyer, R. C. Jones and Booker T. Scruggs, who are appointed for a period of three (3) years;

A. J. Law, Mrs. J. H. Davenport, W. L. Scott and O. B. Hubbuch, who are appointed for a period of four (4) years. No member of the Commission shall serve more than two (2) consecutive terms. Except for the original members of the Commission, a term shall be a three (3) year period. When the term of appointment of any member or members of said Commission shall have expired, or when any vacancy in the Commission occurs by reasons of death, resignation, removal or other cause, the vacancy or vacancies shall be filled by appointments made by the remaining members of said Commission, subject, however, to confirmation by the County Judge and County Council of Hamilton County, and if any appointment made by the Commission shall not be confirmed by the County Judge and County Council within a period of ten (10) days after notice of the appointment has been given to the County Judge and County Council such appointment shall be null and void, and thereupon it will be the duty of the remaining members of the Commission to make a new appointment or appointments, which shall likewise be subject to confirmation by the County Judge and County Council of Hamilton County.

The Humane and Juvenile Court Commission shall organize by choosing a Chairman and Secretary, and shall have power to make rules and regulations for its government, but such rules and regulations shall not be operative until approved by the County Judge and County Council of said County. The Chairman of the Humane and Juvenile Court Commission shall be a member of said Commission, but the Secretary need not be a member of said Commission.

It shall be the duty of said Commission to see to the enforcement of all laws for the purpose of prohibiting and restraining inhuman treatment of children and protecting women and children deserted by husbands

and fathers.

It shall be the duty of said Commission to prepare and maintain proper detention homes for delinquent and dependent white and colored children.

The title to all property acquired by the said Humane and Juvenile Court Commission shall be vested in a Board of Trustees selected by the Humane and Juvenile Court Commission, but it shall remain under the control of said Humane and Juvenile Court Commission.

SECTION 5. That A. M. Pennybacker shall be the Judge of the Juvenile Court of Hamilton County to serve until the next regular election. The Judge shall then be elected by the people of the County and shall serve for a term of eight (8) years and until his successor is elected and qualified, and shall receive a salary of Twenty Two Thousand Five Hundred (\$22,500.00) Dollars per annum. Said Judge shall be not less than thirty (30) years of age. Said Judge shall take and subscribe to the same oath of office as that prescribed for other Judges of this State. The Judge shall give his entire time to the duties of this office.

In the event the Office of Judge of the Juvenile Court shall become vacant by reason of death or resignation or other cause before the expiration of the term of the Judge, the County Judge shall appoint a Judge of the Juvenile Court of Hamilton County to serve until the next regular election.

In the event of his temporary inability to serve because of illness, or other cause, the County Judge shall appoint a Temporary Judge to serve during the period of such disability.

The Judge is hereby authorized and empowered to make and promulgate rules and regulations for the government of the Juvenile Court, to fix the times and place at which said Court shall meet and prescribe the sessions at which all persons in the jurisdiction of the said Juvenile Court shall have their cases set for trial.

All monies derived from fines assessed upon conviction of any persons by the Judge shall be carried into the County Treasury of said County.

As amended by: Private Acts of 1957, Chapter 287
Private Acts of 1967-68, Chapter 287
Private Acts of 1972, Chapter 404
Private Acts of 1974, Chapter 338

SECTION 5-A. The Judge of the Juvenile Court of Hamilton County shall receive, in addition to his salary set by law; the sum of Fifteen Hundred (\$1,500.00) Dollars per annum, to be used by said Judge, at his discretion, in carrying on the non-judicial functions incident to his office as judge. The County Council of Hamilton County shall appropriate said sum of Fifteen Hundred Dollars (\$1,500.00) per annum for said purpose, and Hamilton County shall pay said sum to said Judge.

As amended by: Private Acts of 1963, Chapter 289

SECTION 5-B. Beginning September 1, 1974 the compensation of the Judge of the Juvenile Court of Hamilton County shall be the base salary fixed in this law adjusted to reflect the percentage of change in the per capita personal income of the state of Tennessee, as defined and published by the United States department of commerce [sic], between that of the calendar year 1973 and the calendar year next preceding September 1 of the year for which the salaries are to be paid. The adjustments shall occur on September 1, 1974 and on September 1 every year thereafter for the ensuing year commencing September 1. The base salary per year shall be eighteen thousand five hundred (\$18,500.00) dollars.

As amended by: Private Acts of 1973, Chapter 140

SECTION 5-C. (a) Beginning September 1, 1982, the total compensation of the judge of the juvenile court of Hamilton County shall be sixty thousand dollars (\$60,000) a year. The amount of compensation established in this subsection shall be the total compensation of the judge of the juvenile court of Hamilton County, and any other supplement or adjustment previously authorized shall be null and void.

(b) This act shall become effective upon the swearing in of the newly-elected or re-elected judge of the juvenile court of Hamilton County, following the termination of the present eight (8) year term in the year 1982.

As amended by: Private Acts of 1982, Chapter 381

SECTION 6. That the Judge shall appoint and designate the titles of a Chief Administrative Officer, hereinafter referred to as the Director, who, with the approval of the Judge, shall appoint and designate the titles of a sufficient number of technical and professional assistants and other employees to carry on the professional, clerical and other non-judicial work of the Court. The Director and other employees shall be appointed from lists of eligible persons established through examinations conducted by the Humane and Juvenile Court Commission. Such examinations shall have reference to education, previous experience, ability, personality, character and special aptitude for the work to which they are assigned. An employee of the Court may be removed, discharged or reduced in pay or position only after he has been given the reasons therefor in writing and afforded an opportunity to be heard before the Judge in

answer thereto.

Any one of the employees of the Court named in this Section may be designated by the Judge to act as Clerk of the said Court in addition to his other duties.

Said officers and employees shall have the powers of peace officers except they shall not serve process in civil cases unless arising in this Court.

SECTION 7. That the Director under the general supervision of the Judge shall organize, direct and develop the administrative work of the Court, including the social, financial and clerical work, and he shall perform such other duties as the Judge shall direct. The technical and professional employees shall have charge of cases assigned to them for investigation or treatment and shall perform such other duties as may be assigned to them by the Director.

SECTION 8. That whenever any person informs the Court that a child is within the purview of this Act, the Court shall make a preliminary inquiry to determine whether the interests of the public or of the child require that further action be taken. Thereupon the Court may make such informal adjustment as is practicable without a petition, or may authorize a petition to be filed by any person. The proceeding shall be entitled "In the matter of _____, a child under seventeen (17) years of age."

The petition shall be verified and may upon information and belief. It shall set forth plainly (1) the facts which bring the child within the purview of this Act; (2) the name, age and residence of the child; (3) the names and residences of his parents; (4) the name and residence of his legal guardian, if there be one, (5) of the person or persons having custody or control of the child, and (6) of the nearest known relative if no parent or guardian can be found. If any of the facts herein required are not known by the petitioner, the petition shall so state.

SECTION 9. That after a petition shall have been filed and after such further investigation as the Court may direct, unless the parties hereinafter named shall voluntarily appear, the Court shall issue a summons reciting briefly the substance of the petition and requiring the person or persons who have the custody or control of the child to appear personally and bring the child before the Court at a time and place stated. If the person so summoned shall be other than a parent or guardian of the child, then the parent or guardian or both shall also be notified of the pendency of the case and of the time and place appointed, by personal service before the hearing, except as hereinafter provided. Summons may be issued requiring the appearance of any other person whose presence, in the opinion of the Judge, is necessary.

If it appears that the child is in such condition or surroundings that his welfare requires that his custody be immediately assumed by the Court, the Judge may order, by endorsement upon the summons, that the Officer serving the same shall at once take the child into custody.

SECTION 10. That service of summons shall be made personally by the delivery of an attested copy thereof to the person summoned; provided, that if the Judge is satisfied that it is impracticable to serve personally such summons or the notice provided for in the preceding Section he may order service by registered mail addressed to the last known address, or by publication thereof, or both, as he may direct. It shall be sufficient to confer jurisdiction if service is effected at least forty-eight (48) hours before the time fixed in the summons for the return thereof.

Service of summons, process or notice required by this Act may be made by any suitable person under the direction of the Court. The Judge may authorize the payment of necessary travel expenses incurred by any person summoned or otherwise required to appear at the hearing of any case coming within the purview of this Act, and such expenses when approved by the Judge shall be a charge upon the County.

SECTION 11. That the Court shall have all the powers of the Court to cause to be brought before it by proper process and to punish those who refuse to obey its lawful orders and to punish by summary procedure those who are guilty of contempt as the same is defined by law, when such contempt is in the presence of the Court; and that for the purpose of compelling the attendance of witnesses and others whose presence in Court is necessary, and to enforce its lawful orders, judgments and decrees, the Court shall have all the power and authority to issue attachments and other processes to bring such persons before the Court.

SECTION 12. Whenever a child is taken into custody, unless it is impracticable or inadvisable or has been otherwise ordered by the Court, he shall be released to the custody of a parent, guardian or custodian, upon the written promise of such parent, guardian or custodian to bring the child to the Court at the time fixed. If not so released such child shall be taken immediately to the Court or to the place of detention designated by the Court. Pending further disposition of the case, a child whose custody has been assumed by the Court may be released to the custody of a parent or other person appointed by the Court, or be detained in such place as shall be designated by the Court, subject to further order.

Nothing in this Act shall be construed as forbidding any Peace Officer from immediately taking into

custody any child who is found violating any law or ordinance. In every case the Officer taking the child into custody shall immediately report the fact to the Court and the case shall then be proceeded with as provided in this Act.

No child shall be confined in any Police Station, Prison or Jail, or be transported or detained in association with criminal, vicious or dissolute persons; except that a child sixteen (16) years of age or older may, with the consent of the Judge or Director, be placed in a Jail or other place of detention for adults, but in a room or ward entirely separate from adults.

SECTION 13. That provisions shall be made for the temporary detention of children in a detention home, to be conducted as an agency of the Court or other appropriate public agency; or the Court may arrange for the care and custody of such children temporarily in private homes subject to the supervision of the Court, or may arrange with any institution or agency to receive for temporary care and custody children within the jurisdiction of the Court.

When a detention home is established as an agency of the Court, the Judge may appoint necessary technicians and other employees for such home in the same manner as is provided herein for the appointment of other employees of the Court, their salaries to be fixed and paid in the same manner as the salaries of other employees.

SECTION 14. That all cases of children shall be heard separately from the trial of cases against adults and without a jury. The hearing shall be conducted in an informal manner, and may be adjourned from time to time. Stenographic notes or other transcript of the hearing shall be required only if the Court so orders. The general public shall be excluded and only such persons admitted as have a direct interest in the case.

SECTION 15. If the Court shall find that the child is within the purview of this Act, it shall so decree and may by order duly entered proceed as follows:

1. Place the child on probation or under supervision in his own home or in the custody of a suitable person elsewhere, upon such conditions as the Court shall determine.
2. Commit the child to the custody or to the guardianship of a public or private institution or agency authorized to care for children or to place them in family homes. In committing the child to a private institution or agency, the Court shall select one that is approved by the Humane and Juvenile Court Commission.
3. Order such other care and treatment as the Court may deem to be for the best interests of the child, except as herein otherwise provided. The Court may dismiss the petition or otherwise terminate its jurisdiction at any time for good cause shown.

Whenever the Court shall commit a child to any institution or agency, it shall transmit with the order of commitment a summary of its information concerning the child, and such institution or agency shall give to the Court such information concerning such child as the Court may at any time require.

SECTION 16. That any decree or order of the Court may be modified at any time. A parent, guardian, or next friend of a child who has been committed by the Court to a public or private institution or agency, or placed in the care or guardianship of any person, may at any time file with the Court a verified petition for the release of the child. The Court, upon due notice to all concerned, shall proceed to hear and determine the question at issue. It may thereupon order that such child be restored to the custody of its parent or guardian or be retained in the custody of the institution, agency, or person, or may make a further order.

SECTION 17. In placing a child under the guardianship or custody of an individual or of a private agency or institution, and in granting adoption, the Court shall, whenever practicable, select a person or agency or institution governed by persons of the same religious faith as that of the parents of such child, or in case of a difference in the religious faith of the parents, then of the religious faith of the child, or, if the religious faith of the child is not ascertainable, then of the faith of either of the parents.

SECTION 18. That whenever a child is committed by the Court to custody other than that of its parents, and no provisions is otherwise made by law for the support of such child, compensation for the care of such child, when approved by order of the Court, shall be a charge upon the County when so adjudged by the Court.

SECTION 19. That the Court may cause any person adjudged to be within its jurisdiction to be examined by a physician, psychiatrist or psychologist.

Whenever a child concerning whom a petition has been filed appears to be in need of nursing, medical or surgical care, the Court may order the parent or other person responsible for the care and support of such child to provide such care in a hospital or otherwise. If such parent or other person fails to provide such care, the Court may, after due notice, enter an order therefor, and the expense thereof, when approved

by the Court, shall be a charge upon the County. But if the Court is of the opinion that the parent or other person is able to bear such expense and fails or refuses to do so, such person may be bound over to the Grand Jury as in other nonsupport cases.

SECTION 20. That in proceedings under this Act no Court or Witness Fees shall be allowed against any party to a petition, and no salaried officer of the County including the Sheriff and his salaried deputies and no salaried officers of any Municipality therein shall be entitled to receive any fee for the service or for attendance in Court in such proceedings, but all other persons acting under orders of the Court may be allowed and paid for services or service of process and attendance or serving as witnesses the fee provided by law for like services in cases before the Circuit Court, the same to be paid from the appropriation provided when certified to by the Judge.

SECTION 21. That all expenses incurred in complying with the provisions of this Act shall be a County charge. The salaries and other compensation of all employees of the Court shall be fixed by the Judge, within the limit of the total appropriations therefor. The Humane and Juvenile Court Commission shall present to the first meeting in April of the County Council each year a proposed budget for the operation of the Court for the next fiscal year. The County Council shall each year appropriate funds sufficient for the efficient operation of said Court.

SECTION 22. That the Court shall make and keep records of all cases brought before it. Such records shall be open to inspection [sic] only by order of the Court to persons having a legitimate interest therein. The Court shall devise and cause to be printed such forms for social and legal records and such other papers as may be required.

SECTION 23. That appeals may be prayed to the Court of Appeals upon the conditions prescribed by law from any order, decree, judgment, or decision of the Juvenile Court, except as elsewhere herein provided.

SECTION 24. That it is hereby made the duty of every public official or department to render all assistance and cooperation with his or its jurisdictional power which may further the objects of this Act. The Court is authorized to seek the cooperation of all societies or organizations having for their object the protection or aid of children.

SECTION 25. That this Act shall be construed as remedial in character and shall be liberally construed to the end that each child coming within the jurisdiction of the Court shall receive such care, guidance and control, preferably in his own home, as will conduce to the child's welfare and best interest of the State and that when such child is removed from the control of his parents, the Court shall secure for him care as nearly as possible equivalent to that which should have been given him by them.

SECTION 26. (a) Beginning September 1, 1990, the total annual compensation of the judge of the juvenile court of Hamilton County shall be the same amount as the annual compensation of a judge of the criminal court or the circuit court in Hamilton County. The amount of compensation established in this subsection shall be the total compensation of the judge of the juvenile court of Hamilton County, and any other supplement or adjustment previously authorized shall be null and void.

(b) This act shall become effective upon the swearing in of the newly-elected or re-elected judge of the juvenile court of Hamilton County, following the termination of the present eight (8) year term in the year 1990.

As amended by: Private Acts of 1989, Chapter 115

SECTION 27. That if for any reason any word, clause, paragraph or Section of this Act shall be held unconstitutional, it shall not invalidate or affect the remainder of said Act.

SECTION 28. That all Acts and parts of Acts in conflict with this Act be, and the same are hereby repealed, and that this Act take effect from and after the first Monday in April, 1945, the public welfare requiring it.

Passed: February 28, 1945.

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