



County Technical Assistance Service
INSTITUTE *for* PUBLIC SERVICE

July 22, 2024

Public Defender

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

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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Table of Contents

Public Defender	3
Private Acts of 1972 Chapter 262	3

Public Defender

Private Acts of 1972 Chapter 262

SECTION 1. Any county of this state having a population of not less than 73,900 nor more than 74,000 according to the Federal Census of 1970, or any subsequent Federal Census may create the office of Public Defender upon the adoption of a resolution establishing such under the provisions of this act when approved by a two-thirds vote of the Quarterly County Court of any such county.

SECTION 2. Immediately upon the creation of this office in any county the County Judge of said county, the Criminal Judge having jurisdiction in said County and the then President of the Local Bar Association of said county, shall by majority vote, nominate and recommend a Public Defender, who shall be a person licensed to practice law and at the next regular meeting of the Quarterly County Court of said county said Quarterly County Court shall approve or disapprove of the nominee chosen as set out above and if said nominee is approved, said nominee shall hold the office of Public Defender for a term of two (2) years commencing on the date said Public Defender is approved by the Quarterly County Court of said County. In the event of a vacancy in the office of Public Defender, a successor shall be chosen in the same manner as the said Public Defender was originally chosen. If the Quarterly County Court of said County does not approve of the nominee recommended, then the County Judge of said county, Criminal Judge having jurisdiction in said county, and the Local Bar president in said county by majority vote, nominate and recommend other persons for the office of Public Defender subject to the approval of said Quarterly County Court as set out above but they shall not be required to and if they do not, the office shall remain vacant. At the end of two years, a successor to this office shall be selected in the same manner as set out above and his term shall be for a term of four (4) years and his successor shall be selected every four (4) years thereafter as set out above.

SECTION 3. The duties of the Public Defender will be to provide himself with the assistance of employed deputies or with the assignment or attorneys made by the Courts before which he practices or lawyers in general practice, the service of defense for any indigent charged with crime at any level, or any person seeking relief from penalty or punishment imposed as a result of criminal action whether the proceeding or procedures by which that relief is sought to be considered criminal or civil, and, in addition, and in particular, to perform the duties required of counsel for indigents set forth in T.C.A. 40-2014, et seq.

SECTION 4. The salary of said Public Defender, his assistants, if any, salary of his secretary and that money furnished as office expenses shall not exceed that which is paid District Attorney General, Assistant Attorneys General (part-time), secretarial salaries and office expense funds as provided by the State of Tennessee in the judicial circuit wherein said county lies. The salaries of Public Defender, his assistants, if any, his secretary and office expense shall be within the limits as set out above and shall be set by resolution of the Quarterly County Court of said county. The number of assistant public defenders, if any, shall be determined by the amount of money made available by the County Court, and if no money is made available by the County Court, then the Public Defender shall not be authorized to hire any assistants.

SECTION 5. The Quarterly County Court in the county wherein the office of Public Defender is created, is hereby empowered and authorized to appropriate and disburse funds from the County General Fund for the establishment, operation, maintenance and salaries for the office of Public Defender. The Quarterly County Court is further authorized to accept and appropriate such funds, grants or donations as may from time to time be received for the establishment, operation and maintenance of said office from any other public or private agency or commission, including but not limited to the State of Tennessee, the United States Government, and any division or agency thereof.

SECTION 6. At the end of the two (2) year period or any time thereafter following the creation of the office of Public Defender in any county, the Quarterly County Court in said county shall not be required to appropriate funds for the continuance of this office and if said Quarterly County Court fails to appropriate funds for the continuation of this office, no successor shall be selected and the office shall remain vacant until said Quarterly County Court appropriates funds sufficient to pay for the operation of said office.

SECTION 7. The Public Defender shall take and file the Constitutional Oath of Office.

SECTION 8. Every person who shall be appointed Assistant Public Defender or a Deputy Public Defender must be a licensed attorney in this State and citizen and resident of the county in which he is appointed. Every such appointment shall be made in writing and under the hand of the Public Defender, and filed in the Office of the Clerk of the Criminal Court of the county in which such appointment is made, and the person so appointed shall take and file with the Clerk of the Criminal Court the Constitutional Oath of Office before entering upon his duties. Every such appointment may be revoked at the pleasure of the

Public Defender making same, which revocation shall be in writing and filed with the Clerk of the Criminal Court. Such Assistant or Deputy Public Defender may attend criminal courts and discharge the duties imposed by law upon or required of the Public Defender by whom he was appointed. The Public Defender may designate in writing, to be filed in the office of the Clerk of the Criminal Court, his assistant to be acting Public Defender in the absence from such county or other disability of the Public Defender. The assistant designated, shall, during such absence or disability of Public Defender, perform the duties of said office. Such designation may be revoked by the Public Defender in writing to be filed in the office of the Clerk of the Criminal Court.

SECTION 9. The Public Defender shall not engage in the private practice of law but may conclude all matters pending when selected. The Assistant Public Defender may engage in the Public Defender but in no case shall the Assistant Public Defender represent any person indigent or not indigent in any criminal proceeding in any Court.

SECTION 10. The Public Defender, once selected, cannot be removed during the term of office for which he was selected except for cause and his salary during the period for which he is selected shall not be reduced. The Public Defender may be removed for cause only after charges specified, due notice given, and a hearing before a panel of Judges made up of all Judges who have jurisdiction within the Counties that the Public Defender serves. This panel shall include all Circuit Judges (both civil and criminal) and Chancery Judges. Their decision shall be administrative and sufficient to either set the charges aside, or by a two-thirds vote, to remove a Public Defender from office.

SECTION 11. This Act shall take effect on becoming a law, the public welfare requiring it.
PASSED: March 8, 1972.

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