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Private Acts of 1955 Chapter 231

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 1955 Chapter 231

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

Court rooms and adequate facilities for said Court shall be provided in the Court House at Savannah; and it shall be the duty of the County Judge of Hardin County to make provisions therefor, and to provide necessary equipment for the proper maintenance of said Court; and the expenses of same shall be paid out of the General Fund of the County.

SECTION 2. That the Court of General Sessions of Hardin County, Tennessee, is hereby vested with all the jurisdiction and shall exercise the authority conferred by the Legislature upon Justices of the Peace in civil and criminal cases, suits and actions, which jurisdiction and authority shall be coextensive with Hardin County, Tennessee; provided, however, nothing in this Act shall be construed to divest the Justices of the Peace of their jurisdiction until this Act becomes effective as hereinafter provided. The authority of said Justices of the Peace in their capacity as members of the Quarterly Court in the performance of the rites of matrimony or in the issuance of criminal and search warrants is in nowise affected by this Act.

SECTION 3. That before the commencement of any civil action, the plaintiff shall pay into the hands of the Clerk an amount sufficient to cover the fees for the issuance of the warrant or writ, rendition of the judgement, docketing, and the fees of the officers for serving process. Before the issuance of an execution, or other process, or the performance of any additional service in the case, the plaintiff, or the party seeking the same, shall pay to the Clerk the fees for the issuance and service thereof. Such payment made for Court costs shall be credited at once to the party paying the same; and such costs paid as compensation for the services of the officers shall become payable to them only after the return of the process has been made. When and in the event such costs are collected from the defendant, the plaintiff or the party whom entitled, shall thereupon be refunded the same; provided, however, that any resident of the State may commence an action, who shall take and subscribe to the oath provided for poor persons, under Section 9080 of Williams Tennessee Code.

SECTION 4. That said Court be in session daily, except legal holidays, from 8:00 o'clock A.M. until the day's business is transacted and each Saturday from 7 o'clock P.M., until 10 o'clock P.M., for the examination and hearing of persons charged with any criminal offense, the taking and fixing of bail for the appearance of the accused, or ordering their discharge or commitment to jail, as required by law.

SECTION 5. That the rules of pleadings and practice, forms of writs and process, stay of and appeals from judgments in civil cases of said Court shall be the same as of Justices of the Peace.

SECTION 6. That the Court of General Sessions of Hardin 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 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 Hardin County, where such appeal shall be tried by a Judge of such Court without a jury, and without indictment or presentment.

SECTION 7. 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 6 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 8. That the Court of General Sessions of Hardin County, Tennessee, and the Judge thereof is hereby vested with jurisdiction concurrent with the County Judge of Hardin County, Tennessee, to try and determine, and render final judgment in all cases and actions involving juvenile matters and all suits and proceedings involving nonsupport and the desertion or abandonment of wives and minors which may be brought before said Court or which may be transferred thereto by the County Judge of Hardin County and which jurisdiction and procedure therein shall be as now provided by the general laws for the Juvenile

Court and County Judge of said County relative to such matters.

The Judge of said County shall have concurrent jurisdiction with the Circuit Judges and Chancellors of the State to grant fiats for the issuance of injunctions, attachments, replevins and other extraordinary process in the same manner as provided by the general law for said Judges and Chancellors.

The Judge of said Court shall have jurisdiction, power and authority to issue and hear writs of habeas corpus in the same manner as provided for Circuit Judges and Chancellors by the general law.

SECTION 9. That all appeal bonds in civil cases, all bail bonds, recognizance bonds and appearance bonds of persons charged with criminal offenses for their appearance for arraignment or trial in said Court of General Sessions shall be taken by the Clerk of said Court. This provision shall in nowise abridge the authority of the Sheriff to take bonds as now provided by law.

SECTION 10. 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 process of said Court and for attendance and mileage of witnesses shall be the same in said Court as those provided by law for the Court of Justices of the Peace.

All costs, fees, and mileage of witnesses, the fees, commissions and emoluments of the Sheriff, his deputies, constables, State Highway Patrolmen, Game Wardens and other officers, for services to said Court, and the fines and forfeitures adjudged by it shall be handled, accounted for and disbursed as required by law.

SECTION 11. That separate dockets shall be kept by the Clerk, under the direction of the Court for civil and criminal cases.

Upon the civil docket 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 the 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.

The Judge of the Court of General Session shall have the power to and may adopt such rules as may be necessary to expedite the trial and disposal of cases.

SECTION 12. That there shall be a Judge for said Court, with all qualifications and the same term of office as provided by the Constitution of the State of Tennessee for inferior courts and the oath shall be the same as that prescribed for Circuit Judges and Chancellors.

SECTION 13. That the compensation of said Judge shall be (\$2,400.00) Twenty-four Hundred Dollars per annum, payable in equal monthly installments. It shall be paid out of the general fund of the County, and said salary shall not be diminished during the time for which said Judge is elected. Said Judge shall be permitted to practice law in all courts of the State except as to matters originating in the Court of General Sessions created by this Act.

SECTION 14. That the first Judge of said Court shall be John Caldwell, said Judge to hold office until the first day of September, 1956, or until his successor in office is elected and qualified. There shall be elected by the qualified voters of Hardin County, Tennessee, at the general election of County officers to be held on the first Thursday of August, 1956, a Judge for said Court and the person elected as Judge of said Court at said election to hold until the first day of September, 1958, or until his successor is elected and qualified. His successor shall be elected by the qualified voters of Hardin County, Tennessee, at the election of County officers of the first Thursday of August, 1958, and hold for a period of eight (8) years as provided by the Constitution of the State of Tennessee and his successor shall be elected every eight (8) years thereafter by the qualified voters of said County.

SECTION 15. That if the Judge of said Court fails to attend, cannot preside in a pending cause, or for any reason fails to hold court, 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, and the County Judge or Circuit Judge or Chancellor shall preside by interchange.

SECTION 16. That for the more efficient conduct of said Court there is hereby created the office of the Clerk of the General Sessions Court and Ralph Covey shall serve as Clerk of said Court until September 1, 1956, or until his successor is elected and qualified. At the regular election of County officers on the first Thursday of August, 1956, his successor shall be elected by the qualified voters of Hardin County,

Tennessee, to serve until the first day of September 1958, at which time the duties of the Clerk of the Court of General Sessions shall be performed by the Circuit Court Clerk of Hardin County, Tennessee, and said Circuit Court Clerk after September 1, 1958, shall act as Clerk of said Court of General Sessions, and when acting as Clerk of said Court of General Sessions he shall be designated as "Clerk of Court of General Sessions of Hardin County, Tennessee". Said Circuit Court Clerk is hereby authorized and directed to perform the duties of Clerk of said Court of General Sessions and shall receive compensation therefor as provided by general law. The compensation of the Clerk of said Court of General Sessions until September 1, 1958, shall be the sum of (\$2,400.00) Twenty-four Hundred Dollars per annum payable in equal monthly installments out of the general fund of said County and the County Judge of Hardin County, Tennessee, shall issue warrants drawn upon the trustee for the payment of said salary as provided herein.

In the case of a vacancy in the office of said Clerk before September, 1958, said vacancy shall be filled by appointment by the Judge of the Court of General Sessions of Hardin County, Tennessee, and his appointee shall hold until the next regular election of County officers at which time the qualified voters of said County shall elect some person qualified as provided by law to fill the remainder of the unexpired term.

All fees, commissions and emoluments accruing under the provisions of this Act to the Judge and Clerk respectively of said Court of General Sessions in the nature of Court costs shall be paid monthly to the County Trustee of Hardin County, Tennessee, and shall be deposited by said trustee in the general funds of said County. The Clerk shall make out and file with the County trustee and the County Judge a report of all fees, commissions, emoluments, fines, and forfeitures accruing and collected in said Court, and retain a copy thereof as a permanent record of his office.

The Clerk of said Court shall have concurrent authority with the Judge to issue warrants and other process and writs other than those required by law to be issued only by a judicial officer.

It shall be the express duty of the Clerk of said Court to keep and write all dockets and docket entries and minutes required by this Act and promptly make any and all entries necessitated by this Statute. In case of the failure or dereliction of the Clerk to do so he shall be subject to ouster in the manner provided by law. It shall likewise be the duty of said Clerk to make and file with the County Court Clerk for transmittal to each quarterly term of the County Court a complete detailed financial report of all receipts and disbursements of said fees of said Court of General Sessions for the previous quarter.

The Clerk of the Court of General Sessions of Hardin County, Tennessee, shall make a good and solvent bond in the penal sum of (\$5,000.00) Five Thousand Dollars for the faithful performance of his duties as such Clerk and for the payment as provided by law of all funds coming in his hands as such Clerk. Said bond shall be conditioned as all other official bonds of Clerks of Courts of Record as provided by general law. No person shall enter upon the duties of office as such Clerk until he has qualified by taking an oath in the manner as required of Clerks of Courts of Record and by executing the bond as herein required and recording and filing the same as provided by the general law. In the event the bond is executed by corporate surety the premiums thereof shall be paid in the manner as provided by general law and said bond shall be approved by the County Judge of Hardin County, Tennessee.

SECTION 17. That the Sheriff of said County or any Deputy Sheriff or Constable thereof, shall serve legal processes, writs and papers issued by said Court with the same authority as provided by law.

SECTION 18. That this Act shall in nowise impair the right, title or interest of any Justices of the Peace of Hardin County to any unpaid fees, or funds in which he has 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 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 of the qualification and induction into office of the first Judge of the Court of General Sessions shall be delivered to the Court of General Sessions. The official dockets, records and papers in possession of Justices of the Peace of said County in cases which have been completed shall be turned over to Hardin County, as provided by law.

SECTION 20. That said Court shall have authority to hear and determine all undisposed cases arising in the Court of Justice of the Peace of Hardin County as if such cases had originated in said Court of General Sessions.

SECTION 21. That in the event a permanent vacancy in the office of Judge occurs, that vacancy shall be filled by appointment by the Governor of Tennessee and the person so appointed and qualified shall serve until the next general election and until the successor of such Judge is elected and qualified.

SECTION 22. That the Legislature 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 Legislature declares that it would have enacted this Act with such unconstitutional or invalid portions elided therefrom.

SECTION 23. That all laws and parts of laws in conflict with this Act which apply to Hardin County, Tennessee, be and the same are hereby repealed.

SECTION 24. That this Act shall have no effect unless the same shall have been approved by a two-thirds (2/3) vote of the Quarterly County Court of Hardin County on or before the next regular meeting of such Quarterly County Court occurring more than thirty (30) days after its approval by the Chief Executive of this State. Its approval or nonapproval shall be proclaimed by the presiding officer of the body having jurisdiction to approve or the reverse and shall be certified by him to the Secretary of State.

SECTION 25. That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: March 10, 1955.

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