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# Private Acts of 1959 Chapter 34

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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 1959 Chapter 34

**SECTION 1.** That there is hereby created and established a Court in and for Smith County, Tennessee, which shall be designated "Court of General Sessions of Smith County, Tennessee." Said county shall provide a Court Room in the Courthouse at Carthage, Tennessee, dockets, furnishings and necessary supplies for the equipment and maintenance of said Court and pay for same out of the general county funds of said county. The regular place for holding said Court shall be at the Court Room provided for said Court in Carthage, Tennessee, but said Court may be held in the discretion of the Judge thereof, at any other public place or places in Smith County, Tennessee, at such time and places as the Judge may designate.

**SECTION 2.** That said Court of General Sessions is hereby vested with all of the jurisdiction and shall exercise 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 elected for any district may issue criminal and search warrants against and accept appearance bonds from any persons charged with an offense, and may issue civil process on any cause of action heretofore triable by a Justice of the Peace, such warrants and process to be returnable to and triable by said Court of General Sessions. 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, or to administer oaths is in no wise affected by this Act.

**SECTION 3.** That the Judge of said Court is hereby vested with and shall have interchangeable and concurrent jurisdiction with the Chancery and Circuit Courts to grant fiats for writs of injunction, attachments and other such actions in which fiats are necessary.

**SECTION 4.** That before any civil case shall be tried or judgment rendered in said Court the plaintiff shall secure the costs by executing a cost bond with good security, in the sum of twenty-five dollars (\$25.00), or by making a cash cost deposit of not less than five dollars (\$5.00), nor more than ten dollars (\$10.00), or shall take the oath prescribed for poor persons, and on motion the Court may in his discretion increase the amount of such bond or deposit.

**SECTION 5.** That the rules of pleading and practice, forms 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; provided, however, that the Court of General Sessions for Smith 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 Criminal Court of Smith County, where such appeal shall be tried by a Judge of such Court without a jury and without indictment or presentment. 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 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 Courts may proceed to hear and determine such case as is provided in Section 1 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 6.** 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 the attendance and mileage of witnesses shall be the same in said Court as those provided by law for the Courts of Justices of the Peace. The fees and compensation due for services rendered by said Court of General Sessions shall be paid to the Clerk of said Court and by him accounted for as hereinafter provided. Said 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 7.** That separate dockets be kept in said 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.

**SECTION 8.** That there shall be one Judge for said Court, with the same qualifications and term of office as provided by the Constitution of the State of Tennessee for Judges of inferior Courts of Tennessee; and the oath shall be the same as that prescribed for Circuit Judges and Chancellors.

**SECTION 9.** That the compensation of said Judge shall be three thousand dollars (\$3,000.00) per annum, payable in equal monthly installments. It shall be paid out of the general funds of the county, and shall not be increased or diminished during the time for which said Judge is elected. Said Judge shall give all his working time to the duties of his office.

**SECTION 10.** That immediately after a ratification of this Act by the voters of Smith County, as herein provided, the Governor will appoint the first judge of said court, who shall serve until the first day of September, 1960, and until his successor has been elected and qualified. His successor shall be elected by the qualified voters of Smith County at the election to be held on the first Thursday of August, 1960, and shall hold said office from the first day of September, 1960, until the first day of September, 1968, or until his successor is qualified. His successor shall be elected every eight (8) years for the term provided by law for judges of inferior courts.

**SECTION 11.** That if the Judge of said Court fails to attend, cannot preside in a pending cause, or for any reason hold Court, or act as Judge, 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 to hold the Court and perform the duties of such Judge for the occasion.

**SECTION 12.** That in the case of a vacancy in the office of such Judge for any cause the Governor shall have the power to appoint some qualified person to fill such vacancy.

**SECTION 13.** That the Clerk of the Circuit Court and Criminal Courts of said county shall act as Clerk of said Court of General Sessions, and when acting as Clerk of said Court shall be designated "Clerk of Court of General Sessions of Smith County." The fees, commissions, and emoluments of said Court of General Sessions shall accrue to said county. The Clerk of said Court shall receive as compensation for his services the sum of six hundred dollars (\$600.00) per annum, payable in equal monthly installments out of the general funds of said county, and shall pay to said county monthly all fees, commissions, and emoluments of said Court of General Sessions. 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.

**SECTION 14.** 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 in the other inferior courts. Provided, however, that no Sheriff, Deputy Sheriff or Constable shall be entitled to any fees merely for opening and closing said Court, or for waiting upon said Court as Court Officer. But the Judge of said Court may select or appoint any of such officers that may be in attendance to wait upon said Court, without any further compensation for such services.

**SECTION 15.** 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 16.** That all of the official dockets, records and papers in cases which 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 which have been completed shall be turned over to said county, as provided by law.

**SECTION 17.** That said Court shall have authority to hear and determine all undisposed of cases arising in the Court of Justices of the Peace of said County as if such cases had originated in said Court of General Sessions, and to issue executions on and orders concerning any unsatisfied judgments on the dockets of said Justices of the Peace, and certify as to any such judgments or records, as such Justices of the Peace

could do but for this Act.

**SECTION 18.** That the General Assembly 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 declares that it would have enacted this Act with such unconstitutional or invalid portions elided therefrom.

**SECTION 19.** That not less than 30 nor more than 90 days after final action on this Act, it shall be the duty of the Board of Election Commissioners of counties to which it applies to call an election for the purpose of ratifying the same under Article XI, Section 9 of the Constitution and in the absence of such ratification, it shall be void and of no effect. The election so called shall be in all respects similar to a general election and shall be governed by all laws applicable thereto. The County Election Commissioners shall meet on the first Monday next following the date of such election, shall canvas the returns and certify the same to the County Court Clerk, who in turn shall certify them to the Secretary of State.

**SECTION 20.** That this Act shall take effect from and after its passage, the public welfare requiring it.  
Passed: February 5, 1959.

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