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# Private Acts of 1979 Chapter 158

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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 1979 Chapter 158

**SECTION 1.** Any county of this state having a population of not less than twentyeight thousand one hundred (28,100) nor more than twenty-eight thousand five hundred (28,500) according to the 1970 United States Census 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.

**SECTION 2.** The legislative body of such county shall create a public defender committee composed of the county executive, four (4) members of the county legislative body, and two (2) attorneys who are members of the local county bar association, nominated by the local county bar association and certified by the president or secretary of the local county bar association to the county clerk.

**SECTION 3.** The public defender committee of the county legislative body shall nominate and recommend a person qualified and licensed to practice law in the state of Tennessee, and such nomination of the committee shall be approved by a majority of such county legislative body at the next regular or called meeting, and after approval, the county legislative body shall appoint such person to be the public defender. If such person is not approved by the county legislative body, the public defender committee shall nominate and recommend other persons for the office of public defender. The term of office for the public defender shall be four (4) years from the date of appointment by the county legislative body. Any and all successors shall be selected in the manner provided in this section for terms of four (4) years.

**SECTION 4.** The duties of the public defender will be to defend, without expense, and to represent generally, all persons who are without means to employ counsel and are charged with a crime at any level, except those persons charged with violations of city ordinances in municipal courts, and in particular, to perform the duties required of counsel for indigents set forth in Tennessee Code Annotated, Title 40, Chapter 20, or subsequent state law.

**SECTION 5.** The public defender committee shall propose and submit to the county legislative body a budget for the operation expense of the public defender's office. The budget shall provide for a salary for the public defender to be paid in the same manner as other county officials and for a stenographer, office rent, telephone and travel expense, office supplies and other expense items, which the committee shall determine to be proper for the conduct of such office. The county legislative body shall approve, reject or modify the budget submitted and shall appropriate funds for the operation of the public defender's office by majority vote of the county legislative body. The county legislative body may accept and appropriate such funds, grants or donations as may be received for the establishment, operation and maintenance of such 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.** The public defender shall take and file the constitutional oath of office with the clerk of the circuit or criminal court of such county which is served by the public defender.

**SECTION 7.** The public defender may appoint assistant public defenders or a deputy public defender, who shall be person(s) licensed to practice law in the state of Tennessee. Every such appointment shall be in writing, signed by the public defender and filed in the office of the circuit or criminal court of the county and the person so appointed shall take and file with such clerk, the constitutional oath of office before entering upon his duties. The public defender may also appoint an acting public defender to serve in the absence from the county or other disability of the public defender. Every such appointment may be revoked at the pleasure of the public defender by written notice filed with the clerk of the circuit or criminal court.

**SECTION 8.** The public defender shall not engage in the private practice of criminal law but may conclude all criminal matters pending when appointed. The public defender may engage in the private practice of civil law provided that it does not substantially interfere with his duties as public defender.

**SECTION 9.** The public defender shall not be removed during his term of office except for cause and his salary during his term shall not be reduced. The public defender may be removed for cause only after charges specified, notice given, and a hearing before a panel of judges made up of all judges of courts or records which have jurisdiction within the county that the public defender serves, including, but not limited to, circuit, criminal, and chancery judges. Their decision shall be administrative and sufficient to either set the charges aside, or by a two-thirds (2/3) vote, to remove a public defender from office.

**SECTION 10.** This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of such counties affected. Its approval or non-approval shall be proclaimed by the presiding officer of the county legislative body and certified by him to the Secretary of State.

**SECTION 11.** For the purpose of approving or rejecting the provisions of this Act, it shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, it shall take effect upon being

approved as provided in Section 10 of this Act.

Passed: May 15, 1979.

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