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Private Acts of 1947 Chapter 384

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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 1947 Chapter 384

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

Said County shall provide a courtroom in the Town of Murfreesboro, Tennessee, dockets, furnishings and necessary supplies for the equipment and maintenance of said Court, and pay for same out of the general funds of said County.

The Judge of the Court of General Sessions of Rutherford County, Tennessee, shall hold said Court in the court room so provided; and in his discretion the Judge of said Court may hold or try a case or cases in any part or locality of Rutherford County that he deems to be more convenient and accessible to the litigants and witnesses.

SECTION 2. That the Court of General Sessions of Rutherford County, Tennessee, shall be and is hereby vested with all of the jurisdiction and shall exercise all of 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, except those in the district where the Court sits, may issue criminal, civil and search warrants against and accept appearance bonds from any person charged with an offense committed in the district for which such Justice of the Peace was elected. But all process issued by Justices of the Peace shall be returnable to the Court of General Sessions of Rutherford County, Tennessee.

The authority of said Justices of the Peace of Rutherford County, Tennessee, in their capacity as members of the Quarterly County Court, or in the performance of the rites of matrimony, is in no wise affected by this Act. The Judge of said Court of General Sessions shall have authority to interchange with the County Judge of Rutherford County and with the Chancellor and Circuit Judge holding Court in said county.

As amended by: Private Acts of 1953, Chapter 115

SECTION 2. (A). That the Court of General Sessions of Rutherford County, Tennessee shall be and is hereby concurrently vested with, and shall exercise, concurrently, all of the jurisdiction and authority conferred by the General Law of the State of Tennessee including but not limited to that conferred by Tennessee Code Annotated, Title 16, Chapter 7, upon the County Court, or the County Judge, or the chairman of the County Court, as a judicial office and as a judicial officer.

SECTION 2 (B). That any appeal from any action or judgement of said court shall be made in the form and manner, to the Court, within the time, and under such circumstances, as is prescribed by the General Law of the State of Tennessee for appeals upon the same subject matter taken from courts having the same or equivalent jurisdiction as was exercised by the General Sessions Court from which an appeal is sought.

SECTION 2 (C). That, contrary provisions of this Act notwithstanding, the Clerk for all things and matters granted by the jurisdictional provisions of Section 2 (A) and 2 (B) above shall be the County Court Clerk of Rutherford County. For all other jurisdiction exercised by this court, the Clerk of the Court shall be the Circuit Court Clerk of Rutherford County as set forth in Section 16, et seq. of this Act.

As amended by: Private Acts of 1973, Chapter 118

SECTION 3. That before the commencement of any civil actions in said Court, the plaintiff shall be required to secure the costs by executing a cost bond with solvent security in a penalty of not less than \$25.00, or by making a cash deposit of not less than \$5.00, nor more than \$25.00, as may be deemed proper by the Judge or Clerk of said Court, or if a resident of the State of Tennessee, may in lieu thereof take and file the oath prescribed for poor persons, and on motion of the defendant, or on its own motion, the Court may have the amount of any such bond or cash deposit increased; and in the case of the issuance of extraordinary process such bond or oath shall be executed and filed as is required under the general laws for extraordinary process in Justice of the Peace Courts.

SECTION 4. No person having business in or before the Court, or any part thereof, shall be required or compelled to engage or employ the services of an attorney.

As amended by: Private Acts of 1973, Chapter 118

SECTION 5. That the rules of pleading and practice, form of writ and process and stay of appeals from judgements in civil cases of said Court shall be the same as of Justices of the Peace.

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 service 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 the Court herein provided is hereby vested with full jurisdiction to try and determine and render final judgment in all misdemeanor cases brought before said Court upon warrant wherein the person charged with such misdemeanor offense enters a plea of guilty or requests trial upon the merits and expressly waives in writing an indictment, presentment, grand jury investigation and jury trial. In such cases, the trial shall proceed before the Court without the intervention of a jury, and the Court shall enter such judgement and, as an incident thereto, may inflict such punishment, within the limits provided by law for the particular offense, as he may deem proper under the peculiar circumstances of such case, but nothing herein shall be construed as undertaking to grant such Judge the power to impose a fine in excess of \$50.00 upon any citizen of this State; and provided further, that the Court herein created shall have no jurisdiction of the trial of misdemeanors for which the minimum punishment is a fine of more than \$50.00, or where a fine of any amount and imprisonment is prescribed.

Any person aggrieved by the judgement of the Court of General Sessions having criminal jurisdiction rendered under the provisions of this section may appeal such judgement to the next term of the Circuit Court of Rutherford County upon executing an appearance bond and likewise executing bond for the amount of fine and costs, or in lieu thereof, taking the oath prescribed by law for paupers. Such appeal, when properly taken to the Circuit Court of Rutherford County, shall be tried by the Judge of the Circuit Court without a jury and without indictment and presentment, and upon the original warrant issued against such person.

The Judge of the Court of General Sessions herein created is expressly authorized to issue any and all process in connection with criminal cases disposed of by him and under the provisions of this section necessary to effectuate the carrying out of the judgement rendered by him in such case.

SECTION 8. 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 payment upon the judgement 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, and shall also contain the information provided for in Section 10 of this Act.

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

SECTION 9. That no warrant or information charging a person with an offense against the laws of the State shall be delivered from said Court to any peace officer for the arrest of such person until after an entry in the Criminal Docket has been made by the Clerk or Judge showing the names of the person or persons accused, the prosecutor, the officer to whom to be delivered and his signature upon said docket showing receipt of such process. All of such warrants, information, dockets, and other records of said Court of General Sessions shall be available to the District Attorney-General for any legal purpose.

SECTION 10. That all appeal bonds in civil cases, all bail bonds, recognizance bonds, and appearance bonds of person charged with criminal offenses for their appearance for arraignment or trial in said Court of General Sessions shall be taken by the Clerk of the Circuit Court. This provision shall in no wise abridge the authority of the Sheriff to take bonds as now provided by law.

When Court is not in session, the Sheriff shall have the right to take bond for the appearance of a person charged with crime, but such bonds may be taken only at the County Jail and a record made thereof. Should the offense be a petty one and the person accused be a resident of the County, the Sheriff may release such person on his own recognizance. Also the Clerk of the Court, when the Judge thereof is not available, may take bond for the appearance of persons charged with crime, if such offense is bailable.

SECTION 11. That the compensation of the Judge of the Court of General Sessions of Rutherford County, Tennessee, shall be \$3,600.00 per annum, payable in equal monthly installments. Said salary shall be

paid out of the general funds of the said County.

SECTION 12. That in order to carry out the purpose and intent of this Act, and to establish the machinery for the operation of this Court of General Sessions, the Honorable A. T. Todd, Jr., a member of the Bar Association of Murfreesboro, Tennessee, and a citizen of Rutherford County, Tennessee, is hereby appointed the first General Sessions Judge of said County, and he shall take office on April 1, 1947, and shall hold said office until the first election of a General Sessions Judge, as hereinafter provided.

The person named in this bill shall serve until September 1, 1948. At the regular August election, 1948, a Judge shall be elected for said Court by the qualified voters of said County to take office September 1, 1948, who shall serve until September 1, 1950. At the August election, 1950, there shall be elected by the voters of said County a Judge who shall hold office for a term of four years from September 1, 1950, and subsequent terms shall be for four years.

The Legislature declares that if the Court hereby created shall be held to be an inferior court within the contemplation of Article VI, Section 4, of the Constitution, and the Judge thereof entitled to a term of eight years, it would have enacted this statute with the term of the Judge fixed at eight years.

There is hereby created and established a Part II of the Court of General Sessions of Rutherford County, and the person to be appointed to fill such position shall be designated as Judge of Part II of said Court. The Judge of Part II shall be vested with the same authority and jurisdiction to try, hear and dispose of such matters, suits and cases as the Judge of Part I. The Governor of the State of Tennessee shall appoint a qualified person who shall serve as Judge of Part II, and the person so appointed shall serve until the next regular election to be held in August, 1974, at which time the qualified voters of said County shall, in the manner provided by law, elect a Judge of Part II of said Court for a full term. The said appointee shall continue to serve until the said electee qualifies for and assumes the office on September 1, 1974, and the full term of office of the Judge of Part II shall be the same as provided by law for the Judge of Part I.

The compensation of the Judge of Part II shall be the same as that of the Judge of Part I, and shall be paid in the same manner as now authorized for the Judge of Part I.

At all times, in a manner as decided upon by the Senior Judge, a judge of the General Sessions Court shall be available to the citizens of Rutherford County.

Effective September 1, 2006, there is created Part III of the Court of General Sessions of Rutherford County. At the August general election in 2006, and every eight (8) years thereafter, the qualified voters of Rutherford County shall elect a person to serve as judge of Part III of the Court of General Sessions for an eight-year term.

Such person shall be required to possess all of the same qualifications as the general sessions judges in Parts I and II and shall be vested with the same authority and jurisdiction to try, hear and dispose of cases and other matters that come before such court as is conferred upon the judges in Parts I and II.

The judge of Part III shall receive the same compensation, payable in the same manner as the judges of Parts I and II.

Beginning September 1, 2006, the Judges of the General Sessions Court of Rutherford County shall designate, by a majority vote, one (1) of the three (3) judges to serve as the presiding judge for a one (1) year term. There is no limit on the number of consecutive terms a judge may serve as presiding judge. The presiding judge shall designate, determine the cases and the time for holding court for each judge. Until September 1, 2006, the present method of selecting the presiding judge shall remain in effect.

Effective September 1, 2016, there is created Part IV of the Court of General Sessions of Rutherford County. At the August general election in 2016, the qualified voters of Rutherford County shall elect a person to serve as judge of Part IV of the Court of General Sessions for a six (6) year term beginning September 1, 2016. The qualifying deadline for the 2016 election is at noon on the ninetieth day before the August general election. Any person qualifying for the 2016 election has until noon on the eighty-seventh day before the August general election to withdraw. After expiration of the initial six (6) year term, and every eight (8) years thereafter, the qualified voters of Rutherford County shall elect a person to serve as judge of Part IV of the Court of General Sessions for an eight (8) year term.

Such person shall be required to possess all the same qualifications as the general session judges in Parts I, II, and III and shall be vested with the same authority and jurisdiction to try, hear, and dispose of cases and other matters that come before such court as is conferred upon the judges in Parts I, II, and III.

The judge of Part IV shall receive the same compensation, payable in the same manner, as judges of Parts I, II, and III.

Beginning September 1, 2016, the Judges of the General Sessions Court of Rutherford County shall designate, by a majority vote, one (1) of the four (4) judges to serve as the presiding judge for a one (1)

year term. There is no limit on the number of consecutive terms a judge may serve as presiding judge. The presiding judge shall designate, determine the cases, and the time for holding court for each judge. Until September 1, 2016, the present method of selecting the presiding judge shall remain in effect.

As amended by: Private Acts of 1973, Chapter 118
Private Acts of 2005, Chapter 59
Private Acts of 2016, Chapter 40

SECTION 13. That if the Judge of said court fails to attend, cannot preside in a pending case or for any reason hold Court, a majority of the attorneys present in such Court may elect some qualified person, and when elected he shall take the same oath and have the same authority as the regular Judge of said Court, to hold the Court and perform all the duties of such Judge for the occasion. In the event of a temporary disability on the part of said Judge, he is hereby authorized to appoint some qualified person, who shall hold Court in his stead for a period not exceeding two days at any stated time, with the provision that not more than two appointments each month shall be made by said Judge.

SECTION 14. That in case of vacancy for any cause, the Governor of the State of Tennessee shall have the power to appoint some qualified person to fill such vacancy until the first day of September following the next biennial August election occurring more than thirty days after the vacancy occurs or until his successor is elected and qualified.

SECTION 15. That the Clerk of the Circuit Court 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 the Court of General Sessions of Rutherford County, Tennessee." The fees, commissions and emoluments of said Court of General Sessions shall accrue to said County, the Clerk of said Court shall receive as his compensation the sum of \$1300.00 per annum, payable in equal monthly installments out of the general funds of said County, and shall pay to said County monthly all fees, the Clerk of said Court shall receive as his compensation the sum of \$1,300.00 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 and the same shall become a part of the general funds of Rutherford County, Tennessee.

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.

As amended by: Private Acts of 1947, Chapter 737

SECTION 16. The judges of the General Sessions Courts, including the Probate Courts and the independent Juvenile Court of Rutherford County, Tennessee, are authorized and empowered to appoint qualified persons that are at least eighteen (18) years of age to serve as court officers, which may include the offices of legal secretary, law clerk, Civil/Probate Court Coordinator, and Juvenile Court Magistrate, for such courts, and whose primary duties shall be to attend and wait upon those courts whenever they are in session, maintain order and decorum in the courtrooms and chambers, perform such other duties as the courts may prescribe, and to perform duties as defined in the job descriptions for such offices as adopted by the County Legislative Body. The officer or officers shall serve at the pleasure of the judges of such courts, and vacancies in the office shall be filled in the same manner and subject to the same terms as provided for the original appointments.

Before entering upon the duties of the officer, the officer or officers and any successor in the office, shall subscribe an appropriate oath chosen and administered by such officer's appointing judge.

At the expense of the County, and when performing any of the duties of the office, the officer, or officers and any successor shall display a badge of the office, and shall be entitled to compensation from the county treasury in such amount and upon such terms as the County Legislative Body shall determine from time to time.

As amended by: Private Acts of 1977, Chapter 76
Private Acts of 2014, Chapter 76

SECTION 17. 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, judgement or suit, whether said cause is disposed of or pending when this Act becomes effective.

SECTION 18. That all of the official dockets, records and papers in cases that are undisposed of or pending in the offices of Justices of 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 that have been completed shall be turned over to said County, as provided by law.

SECTION 19. That said Court shall have the authority to hear and determine all undisposed of cases in the Courts of the Justices of the Peace of said County as if such cases had originated in said Court of

General Sessions.

SECTION 20. That none of the provisions contained in this Act shall be construed to prohibit the Judge of the Court of General Sessions of Rutherford County, Tennessee, from practicing law in the Chancery Courts, Circuit Courts, County Courts, and Appellate Courts of the State of Tennessee, except in cases having their origin in said Court of General Sessions of Rutherford County, Tennessee.

SECTION 21. That the General Assembly of the State of Tennessee expressly declares that each section, subsection, paragraph, and provision of this Act is several, 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 of the State of Tennessee declares that it would have enacted this Act with such unconstitutional or invalid portions elided therefrom.

SECTION 22. That this Act shall take effect on April 1, 1947, after its passage, the public welfare requiring it.

Passed: February 26, 1947.

COMPILER'S NOTE: The question of the constitutionality of portions of this Act, as amended, was raised in the case of *O'Brien v. Rutherford County*, 199 Tenn. 642, 288 S.W.2d 708 (1956), along with issues of equitable estoppel. Section 15 was declared unconstitutional as being in violation of Article 11, Section 8 of the Tennessee Constitution, and could properly be elided from the Act at the instance of one who was not estopped to question it.

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