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# Private Acts of 1941 Chapter 393

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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 1941 Chapter 393

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

Court rooms and adequate facilities for said Court shall be provided in the Court House at Lexington; and it shall be the duty of the County Judge of Henderson 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 Henderson County, Tennessee, is hereby vested with all the jurisdiction and shall exercise the authority conferred by the Legislature upon the Justices of the Peace in civil and criminal cases, suits and actions, which jurisdiction and authority shall be coextensive with Henderson County, Tennessee; provided, however, nothing in this Act shall be construed to divest the Justices of the Peace of their jurisdiction until the election and qualification of a Judge for said Court of General Sessions as hereinafter provided. The authority of said Justices of the Peace in their capacity as members of the Quarterly Court or in the performance of the rights of matrimony is in nowise affected by this Act.

**SECTION 3.** That before any 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 judgment, 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 to 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 the Section 9080 of the Code of Tennessee.

**SECTION 4.** That said Court shall be in session daily, except legal holidays, and each Saturday from after 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 Henderson 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 Henderson 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 a trial by a jury of his peers.

**SECTION 8.** That in all cases where defendants shall be bound over to the Grand Jury of Henderson County, Tennessee, by the Mayor or Judge of the City Court of Lexington, such defendants shall forthwith be brought before the Court of General Sessions upon any State's warrant outstanding, or any State's warrant or information filed against them, and there arraigned as if such cases originated in the Court of General Sessions as is provided for in Sections 6 and 7 of this Act.

**SECTION 9.** That no warrant or information charging a person with an offense against laws of the State shall be delivered to any peace officer for the arrest of such person until after an entry in the Criminal Docket has been made by the Clerk, showing the names of the person or person 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 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 the Circuit Court. This provision shall in nowise abridge the authority of the Sheriff to take bonds as now provided by law.

**SECTION 11.** 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 of 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 12.** 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 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, and shall also contain the information provided for in Section 9 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 13.** That there shall be a Judge for said Court, who shall be a person with all the 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.

As amended by: Private Acts of 1973, Chapter 115

**SECTION 14.** That the compensation of said Judge shall be Two Thousand Four Hundred (\$2,400.00) 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 the Chancery Courts and the County Courts of the State, provided such practice does not interfere with the duties of his office.

Commencing with the 1990 election, all general sessions court judges of Henderson County shall receive an annual cost of living increase equal to any annual cost of living increase received by Henderson County elected officials pursuant to Tennessee Code Annotated, Title 8, Chapter 24, Part 1.

As amended by: Private Acts of 1947, Chapter 141  
Private Acts of 1990, Chapter 209

**SECTION 15.** That the first Judge to be elected under the provisions of this Act shall be elected by the qualified voters of the County at the election for judicial and other civil officers on the first Thursday of August, 1942, and shall take office September 1st, 1942, and shall serve for a period of eight years, and until his successor is elected and qualified as is provided by law for judges of inferior Courts. Said election shall be conducted in accordance with the general election laws of the State of Tennessee.

**SECTION 16.** 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 17.** That the Clerk of the Circuit Court of Henderson County, Tennessee, 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 Henderson County, Tennessee." Said Clerk is hereby authorized and directed to perform the duties of said Court, and shall receive as compensation therefor the sum of (\$1200.00) Twelve Hundred Dollars per annum, payable in equal monthly installments, the same to be paid out of the general fund of the County. Said salary of \$1200.00 to be in addition to the salary already paid him as Circuit Court Clerk for said County. The Judge of the County Court shall issue warrants drawn upon the Trustee for the payment of said salary as provided herein.

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 Henderson County, Tennessee, and shall be deposited by said Trustee in the general fund of said County.

The Clerk of said Court shall have concurrent authority with the Judge 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 1945, Chapter 6,  
Private Acts of 1953, Chapter 585.

**SECTION 18.** 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 heretofore provided by law.

**SECTION 19.** That this Act shall in nowise impair the right, title or interest of any Justices of the Peace of Henderson 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 20.** That all the official dockets, records and papers in cases that are undisposed of or pending in the offices of the 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 completed shall be turned over to Henderson County, as provided by law.

**SECTION 21.** That said Court shall have authority to hear and determine all undisposed cases arising in the Courts of Justice of the Peace of Henderson County as if said cases had originated in said Court of General Sessions.

**SECTION 22.** That the Legislature expressly declares that each section, sub-section, 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 the 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 Henderson County, Tennessee, be and the same are hereby repealed.

**SECTION 24.** That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: February 13, 1941.

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