



May 05, 2024

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## Chapter V - Court System

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Sincerely,

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## Chapter V - Court System

### Circuit Court

#### Clerk

### Private Acts of 1961 Chapter 49

**COMPILER'S NOTE:** The minimum salary of the circuit court clerk is determined in accordance with T.C.A. § 8-24-102.

**SECTION 1.** That the Circuit Court Clerk of Benton County, Tennessee shall be allowed the sum of eighteen hundred dollars (\$1800.00) per annum for his duties as Clerk of the Court of General Session of said county. Such sum shall be supplementary of and in addition to the amount allowed such clerk under the minimum state salary schedule as provided in Section 8-2405 of the Tennessee Code Annotated for Circuit Court Clerks. Such additional sum for his duties as Clerk of the Court of General Sessions shall be paid by warrant of the Trustee from funds paid into the county from fines and costs collected by and through the said Court of General Sessions at the time and in the manner payment is made such clerk for his duties as Circuit Court Clerk under the provisions of the above said minimum salary act.

Provisions for payment of such additional amount is made pursuant to Section 16 of Chapter 109 of Public Acts of 1959 creating such court of General Sessions.

**SECTION 2.** That this Act shall have no effect unless the same shall be approved by a two-thirds vote of the Quarterly County Court of Benton County on or before the next regular meeting of said Quarterly County Court occurring more than thirty days after the approval of this Act by the Governor. The action of the Quarterly County Court hereon shall be proclaimed by the presiding officer thereof and shall be certified by him to the Secretary of State.

**SECTION 3.** That this Act take effect from and after its passage, the public welfare requiring it.

Passed: February 16, 1961.

### Juvenile Court

### Private Acts of 1974 Chapter 282

**SECTION 1.** The General Session Court of Benton County, Tennessee shall constitute and be the Juvenile Court of Benton County, Tennessee and shall be, and is hereby vested with, and shall exercise, in addition to its existing duties, responsibilities, and jurisdiction, all of the jurisdiction and authority conferred by Title 37, Chapter 2, Tennessee Code Annotated upon the juvenile courts of this state. The juvenile jurisdiction previously conferred upon the County Judge of Benton County, Tennessee is hereby divested from the office of County Judge and transferred to and vested in the General Sessions Court of Benton County, Tennessee as authorized under Title 37, Chapter 2, Tennessee Code Annotated.

**SECTION 2.** In addition to the annual salary established by law for the judge of the General Sessions Court of Benton County, such judge is hereby granted an annual salary supplement in the amount of three thousand six hundred dollars (\$3,600), to be paid in equal monthly installments, as compensation for the additional duties and responsibilities imposed upon him as juvenile court judge of Benton County.

As amended by: Private Acts of 1976, Chapter 240.

**SECTION 3.** This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the Quarterly County Court of Benton County on or before September 1, 1974. Its approval or nonapproval shall be proclaimed by the presiding officer of the Quarterly County Court and certified by him to the Secretary of State.

**SECTION 4.** For the purpose of approving or rejecting the provisions of this Act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective from and after September 1, 1974.

Passed: March 12, 1974.

## Court System - Historical Notes

### **Board of Jury Commissioners - Jurors**

The following acts once affected jurors or boards of jury commissioners in Benton County, but are no longer operative. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1911, Chapter 115, established a Board of Jury Commissioners for Hardin, Chester, Decatur, and Benton Counties, and presumably in Madison County, also. The Board would consist of three discreet residents who would be appointed by the Judges of the Court. If there should be more than one Judge, each may appoint, or they may join together and appoint one Board for all the Courts. The members must be of good moral character and not involved in any suit pending in the courts. Each member must be sworn before serving. The Board will make out a list of 37 jurors, or more, if the court so ordered, which list would be certified by the Board and kept by the Clerk. Ten days before court began the jurors would be summoned by the Sheriff, being subject to fines if they failed to appear. The members would be paid \$2.00 per day for up to 2 days for their services. Provisions were made to replace a Commissioner, to replenish the jury list if it were exhausted, and to summon special panels whenever the need arose. Jurors could be excused from serving only by the Judge. This act was repealed by Private Acts of 1921, Chapter 615, although this 1921 act involved Henderson County.
2. Private Acts of 1943, Chapter 134, created a Board of Jury Commissioners for Benton County to be appointed by the Circuit Judge and hold office at his pleasure. The Board of three members must be of good moral character, freeholders of the county, and have no litigation pending. Any vacancies must be filled in the same way. The Board would select its own Chairman, be sworn to secrecy, and be served by the Circuit Court Clerk who must also take an oath not to reveal the names of any jurors. From available public sources the Board was required to select a list of at least 200 people who would be listed in a book and verified by the Board. Their names would be also be placed on scrolls of paper and put into a box which would be locked and sealed. Twenty days before court at least 40 names would be drawn from the box by a child under ten years of age, placed in an envelope and presented to the Judge in open Court. The Circuit Court Clerk would deliver the list to the Sheriff who would summon the same to Court. No one was permitted to divulge the names of the prospective jurors. The names of the Grand Jurors would be drawn from these forty in open court, and provisions were included to produce a special panel of jurors when the need arose. Board members would receive \$5.00 per day up to \$25 per year for their services. This act was repealed by the one following.
3. Private Acts of 1955, Chapter 288, specifically repealed Private Acts of 1943, Chapter 134, above, in its entirety, and was properly ratified by the Quarterly County Court of Benton County.
4. Private Acts of 1955, Chapter 290, creates a three member Board of Jury Commissioners to be appointed by the Chancellor, the Circuit Judge, and the County Judge within thirty days after the passage of this act and within thirty days from the expiration of their terms thereafter. Members must be discreet, of good moral character, not attorneys, no suit pending, not county officials, or constable and they would serve three year terms. Vacancies would be filled by the other members of the Board. They must subscribe an oath and elect one of their members to be Chairman. The Circuit Court Clerk would be their clerk, being likewise sworn. The Board would select at least 200 names, as nearly equal from the civil districts as they could make them, which would be put in a book, verified, and also placed upon scrolls which would go into a box under seal and lock. Twenty days before court the Board would meet and a child under 10 years of age would draw 40 names from the box, who would compose the jury panel for that term. The Grand Jury might be drawn in open court but the Judge could appoint the foreman. Other provisions were similar to those previously set out.

### **Chancery Court**

The following acts form an outline of the development of equity jurisdiction in Benton County, although they no longer have the force of law since they have either been superseded by general law, repealed, or failed to receive local ratification.

1. Public Acts of 1835-36, Chapter 4, divided Tennessee into three Chancery Districts each of which would have a Chancellor who would be appointed by the General Assembly for an eight year term. These divisions were named Eastern, Middle, and Western. Carroll and Benton Counties made up the Third District of the Western Chancery Division of the State.
2. Acts of 1837-38, Chapter 14, assigned Henry, Weakley, Obion, Dyer, Gibson, Carroll, Benton, Perry, Henderson, and Madison Counties into one chancery district. The court for this District

would be held at Huntingdon, in Carroll County, on the first Monday in February and August.

3. Acts of 1851-52, Chapter 308, Section 2, stated that citizens of Benton County shall have the privilege of filing their Bills in Chancery at Paris or at Huntingdon as they may elect or desire to do.
4. Acts of 1851-52, Chapter 345, Section 3, was a duplicate of the provisions in the preceding item permitting the citizens of Benton County to file their Chancery suits at Paris or at Huntingdon.
5. Acts of 1853-54, Chapter 54, Section 3, created a new Sixth Chancery District made up of the counties of Carroll, Benton, Humphreys, Dickson, Hickman, Perry, Decatur, Henderson, McNairy, Hardin, Wayne, and Lawrence. A chancery court was established at Camden for the people of Benton County whose terms would begin on the fourth Monday of February and August of each year, and for whom the Chancellor of the District would appoint a Clerk and Master who must make bond before serving. All citizens may file their bills at Camden and have all causes pending elsewhere transferred to this court.
6. Acts of 1855-56, Chapter 112, Section 5, changed the starting dates of the terms of some of the Chancery Courts in the Sixth Chancery Division. The Court at Camden would begin on the fourth Monday in March and September.
7. Public Acts of 1857-58, Chapter 88, divided the State into Eastern, Middle, Western, Fourth, Fifth, and Sixth Divisions. Benton County was in the Sixth Chancery Division with the counties of Carroll, Henderson, McNairy, Hardin, Wayne, Lawrence, Hickman, Dickson, Humphreys, Decatur, and Perry. The terms of court would begin in Camden on the fourth Monday in March and September.
8. Public Acts of 1865-66, Chapter 20, Section 3, created a Ninth Chancery District composed of the counties of Henry, Weakley, Obion, Dyer, Gibson, Carroll, and Benton whose court term would start on the fourth Monday in March and September.
9. Public Acts of 1866-67, Chapter 25, Section 3, changed the terms of court for some of the counties in the Ninth Chancery Division. Benton County Chancery Court would start its term in Camden on the third Monday of February and August.
10. Public Acts of 1867-68, Chapter 88, Section 7, stated that the February term of the Chancery Court in Benton County would begin on the fourth Monday of the month instead of the third.
11. Public Acts of 1870, Chapter 32, divided Tennessee into twelve Chancery Districts. The Ninth District was made up of the counties of Benton, Hickman, Henderson, McNairy, Lawrence, Dickson, Humphreys, Decatur, Lewis, Perry, Hardin, and Wayne.
12. Public Acts of 1870, Chapter 47, scheduled the court terms for the Chancery Courts of all the counties. Benton County would begin the terms of the Chancery Court on the first Monday in January and July.
13. Public Acts of 1870-71, Chapter 10, changed some of the Chancery Court terms in the Ninth Chancery Division. Benton County would commence the terms of Chancery Court on the second Monday in January and July at Camden.
14. Public Acts of 1873, Chapter 5, again rescheduled the starting dates for the Chancery Courts of the Ninth Chancery Division. Benton County was changed to the third Monday in June and December at Camden.
15. Public Acts of 1879, Chapter 88, reorganized the starting dates for the terms of the Chancery Court in the Ninth Chancery Division but left Benton County with the third Monday in June and December.
16. Public Acts of 1881, Chapter 162, changed the court terms of the Chancery Courts in the Ninth Chancery Division but Benton continued to start the terms of Chancery Court on the third Monday in June and December.
17. Acts of 1885 (Ex. Sess.), Chapter 20, reorganized the lower judicial structure of equity into eleven Chancery Divisions of which the Seventh contained the counties of Maury, Giles, Lawrence, Lewis, Wayne, Hickman, Hardin, Perry, Decatur, Dickson, and Benton whose court terms were scheduled to begin on the third Monday in June and December, as before.
18. Public Acts of 1887, Chapter 5, changed the starting dates of the Chancery Court terms in Benton County to the third Monday in March and the fourth Monday in September.
19. Public Acts of 1899, Chapter 427, rearranged the entire lower judicial structure of the state. There were ten Chancery Divisions of which the Eighth Division contained the counties of Decatur, Hardin, Chester, Benton, McNairy, Crockett, Henderson, Carroll, Henry, Madison, and Perry.

Chancery Court terms would begin in Benton County on the fourth Monday of January and July.

20. Acts of 1903, Chapter 36, rescheduled the dates for the Chancery Court terms for the counties of the 8th Chancery Division switching Benton County to the third Monday in May and November.
21. Private Acts of 1921, Chapter 323, changed the Chancery Court terms in Benton County to the fourth Monday in March and September.
22. Private Acts of 1923, Chapter 300, rearranged the starting dates for the Benton County Chancery Court to the third Monday in May and November.
23. Public Act of 1931 (2nd Ex. Sess.), Chapter 38, reorganized the entire lower judicial system of the State. Of the fourteen Chancery Districts created, the 8th Chancery Division was composed of the counties of Carroll, Henry, McNairy, Crockett, Hardeman, Decatur, Hardin, Chester, and Benton, where the court terms would begin on the third Monday in May and November. All the remaining legislation for the Chancery Court in Benton County would come by the way of public act.

### **Clerk and Master**

The reference list below contains acts which once applied to the clerk and master in Benton County.

1. Private Acts of 1911, Chapter 178, stated that the salary of the Clerk and Master of Benton County, using the 1910 Federal Census figures, shall be \$600 per year, provided that a sworn, itemized statement be filed on January 1 of each year showing the exact amount of fees collected by this office. If the fees are less than the salary, the county shall pay the difference on a warrant of the County Judge out of the regular county funds. If the fees exceed the salary, the Clerk and Master may retain the excess for himself.
2. Private Acts of 1919, Chapter 743, declared that the Clerk and Master of Benton county would be paid a salary of \$1,000 per year, provided, a sworn, itemized statement showing the amount of fees collected by the office shall be filed with the County Judge, or Chairman. If the fees are less, the county will make up the difference out of the county treasury. If the fees exceed the salary, the excess shall be paid into the treasury.
3. Private Acts of 1923, Chapter 534, was another act providing that the compensation of the Clerk and Master of Benton County be \$1,000 per year under the conditions stated above, except that in this act the Clerk and Master could retain the fees which were in excess of the salary.
4. Private Acts of 1943, Chapter 369, amends Private Acts of 1935, Chapter 783, by increasing the salary of the Clerk and Master to \$1,200 from \$1,000, and by changing the census figures from the year 1910 to the year 1930. This act still would not apply to Benton County.
5. Private Acts of 1949, Chapter 396, applied to Benton County and set the yearly salary of the Clerk and Master at \$1,800 payable monthly out of the regular county funds. The Clerk and Master was required to file a quarterly report showing all the fees collected by the office for that quarter and pay the same into the hands of the County Trustee, except those received in the capacity of Trustee, Receiver, or Special Commissioner which the Clerk and Master might keep. The bonds and incidental costs of the office shall be paid by the county.

### **Circuit Court**

The following acts were once applicable to the circuit court of Benton County but now have no effect, having been repealed, superseded, or having failed to win local approval. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Public Acts of 1835-36, Chapter 5, provided that the circuit courts of the various counties would be held three times a year. The State was divided into eleven Judicial Circuits of which Henry, Carroll, Weakley, Obion, Dyer, Gibson and Benton Counties composed the Ninth Judicial Circuit. The circuit court terms in Benton County were scheduled to begin the second Monday in April, August, and December. The Circuit Courts would be held at the house of Samuel H. Burton until the courthouse was ready.
2. Private Acts of 1835-36, Chapter 30, stated that the County and Circuit Courts would meet at the house of Samuel H. Burton in Benton County until the building of a courthouse.
3. Private Acts of 1835-36, Chapter 68, Section 4, provided that all appeals and appeals in the nature of a writ of error which originate in Benton County shall be taken to the Supreme Court at Jackson in Madison County.
4. Acts of 1837-38, Chapter 3, Section 5, assigned Benton County to the 14th Judicial Circuit, newly created, along with the counties of Wayne, Lawrence, Hardin, Carroll, Perry, and Hickman. Circuit Court terms would begin on the fourth Monday in April, August, and December.
5. Acts of 1837-38, Chapter 116, Section 10, rescheduled circuit court terms for most of the counties

in the 14th Judicial Circuit, named above. Benton was scheduled for the first Monday in January, May, and September.

6. Acts of 1839-40, Chapter 108, Section 2, provided that the next term of the circuit court in Benton County would begin on the second Monday in May next. All suits would be continued until that time and all process would be made to conform to that date.
7. Acts of 1839-40, Chapter 140, rescheduled the starting dates for the circuit court terms in the counties composing the 14th Judicial Circuit. The courts would open in Camden in Benton County on the second Monday in January, May and September.
8. Acts of 1845-46, Chapter 21, Section 6, added Carroll County and Benton County to the 9th Judicial Circuit.
9. Acts of 1847-48, Chapter 33, stated that from and after next February 1, the Circuit Court of Benton County would commence its terms on the first Monday of January, May, and September.
10. Acts of 1847-48, Chapter 198, Section 6, repealed that portion of Acts of 1845-46, Chapter 21, above, as it involved Carroll and Benton Counties.
11. Public Acts of 1857-58, Chapter 21, changed the term of court for several counties including Benton whose circuit court would commence the terms on the second Monday in January, May, and September.
12. Public Acts of 1857-58, Chapter 93, changed the schedule of court terms for the Circuit Courts of the Ninth Judicial Circuit but Benton County is not mentioned, probably because the Act which placed Carroll and Benton Counties in that circuit was later repealed.
13. Public Acts of 1857-58, Chapter 98, reorganized the lower judicial structure of the circuit courts into sixteen judicial circuits. The 13th circuit was composed of Benton, Henry, Humphreys, Weakley, and Carroll Counties.
14. Public Acts of 1865-66, Chapter 10, rescheduled the dates for opening the terms of the Circuit Court in the 13th Judicial Circuit which was composed of Benton, Henry, Humphreys, Weakley, and Carroll Counties. Benton's court terms would begin on the first Monday in March, July, and November.
15. Public Acts of 1870, Chapter 31, organized Tennessee into fifteen regular and one special judicial circuits. The 12th Judicial Circuit contained the counties of Benton, Henry, Weakley, Carroll, Etheridge, Obion, Lake, and the special court held at Union City.
16. Public Acts of 1870, Chapter 46, established court terms for the Circuit Courts of every county in the State. Benton County would start the Circuit Courts on the third Monday of January, May, and September.
17. Acts of 1885 (Ex. Sess.), Chapter 20, divided the lower judicial system of Tennessee into fourteen regular and one special judicial circuit. The 12th Judicial Circuit contained the counties of Obion, Henry, Carroll, Weakley, Gibson, Crockett, Haywood, and Benton where the circuit court would begin on the third Monday in January, May, and September.
18. Public Acts of 1887, Chapter 94, changed the opening dates of the Circuit Court terms in Benton County to the second Monday in April, August, and December.
19. Public Acts of 1895, Chapter 46, created a criminal court division for the counties of the 11th Judicial Circuit made up of Madison, Chester, McNairy, Henderson, Decatur, Perry, and Benton Counties. There would be three sessions of the Criminal Court each year in each county at the county seat and the court was set to begin in Benton on the third Monday in January, May, and September. These newly created courts would possess the same criminal jurisdiction as the circuit courts. The Circuit Court Clerk would transfer all criminal cases immediately and the same forms of legal proceedings and bonds were to be used here as were utilized in the circuit courts. The Governor would appoint a Judge to serve until September 1, 1896, when a Judge would be elected by the people. The Attorney General for the 11th Judicial Circuit would prosecute for the State.
20. Public Acts of 1895, Chapter 124, established different court dates for the criminal courts of the 11th Circuit. This Court would open in Camden in Benton County on the third Monday in January, May, and September, as it formerly did.
21. Public Acts of 1899, Chapter 155, abolished the criminal courts in the 11th Judicial Circuit, specifically repealing Public Acts of 1895, Chapter 46, above, and Public Acts of 1895, Chapter 124, above, and restored all the criminal jurisdiction to the circuit courts of these counties where it formerly rested. These courts would exercise all rights, jurisdiction, and powers as they formerly had.

22. Public Acts of 1899, Chapter 409, Section 10, stated that the criminal jurisdiction of the courts in the counties of Benton, Henderson, Decatur, Perry, Madison, Chester, and McNairy was returned to the circuit court as it formerly was which was to be exercised by the circuit court judges as fully as before, except in Madison County which would continue to hold a separate criminal court. Section 11 of this Act made Benton County a part of the 12th Judicial Circuit and the terms of the Circuit Court would begin on the first Monday in April, August, and December.
23. Public Acts of 1899, Chapter 427, rearranged the entire lower judicial system of the State. There were fourteen Judicial Circuits of which the 13th was made up of the counties of Crockett, Haywood, Carroll, Henry, Gibson, and Benton whose circuit court would open its term on the second Monday in February, June and October.
24. Acts of 1905, Chapter 57, attached Benton County to the 14th Judicial Circuit from the 13th Judicial Circuit by amending Public Acts of 1899, Chapter 427, to that effect.
25. Acts of 1905, Chapter 304, rescheduled circuit court terms for most of the counties in the 14th Judicial Circuit which listed the counties of Obion, Dyer, Lake, Weakley, and Benton. Benton would start the circuit court terms on the fourth Monday of January, May and September.
26. Acts of 1907, Chapter 485, again rescheduled the starting dates for the circuit courts in the 14th Judicial Circuit. Benton County would take up the docket of the Circuit Court beginning on the first Monday in February, June and October. All process must be made to conform to those dates.
27. Private Acts of 1923, Chapter 135, changed the time of holding the Circuit Court of Benton County to the fourth Monday in January, May and September. Furthermore, the act stated that all process issued from the Circuit Court of Benton County were to be returned on the fourth Monday in January, May and September instead of the first Monday in February, June and October. Also, all persons indicted in the Circuit Court were to appear on the fourth Monday in January, May and September, instead of the first Monday in February, June and October.
28. Private Acts of 1931, Chapter 343, stated that in Benton County, using the 1930 Federal Census figures, in forming the Grand Jury, the Judge of the Circuit, or Criminal Court, shall direct the name of jurors duly appointed as the law now provides, and attending court, to be written on scrolls and placed in a box, and twelve names be drawn by a child under ten years of age. These shall be constituted the Grand Jury whose Foreman the Judge may appoint. The foreman shall be paid \$4.00 per day for each day he presides while the Grand Jury is in session, but shall receive no other compensation. The Judge may appoint another, if, for any reason, this one cannot serve.
29. Public Acts of 1931 (2nd Ex. Sess.), Chapter 38, created twenty Judicial Circuits when it reorganized the lower court system of the State. The 14th Judicial Circuit was composed of the counties of Obion, Benton, Dyer, Lake, and Weakley. Court terms would begin in Benton County on the first Monday of February, June and October. From this point on all changes in the judicial system would be by public act.
30. Private Acts of 1939, Chapter 320, amended Private Acts of 1931, Chapter 343, above, by inserting an entirely new Section 2. The names drawn from the hat together with the foreman shall constitute the Grand Jury. This Act names Fred H. Saunders as the Foreman of the Grand Jury who would serve for two years. Subsequent appointments shall be made by the judge. Qualifications of a foreman are repeated here, who must be at least 25 years of age, a good lawful man and a freeholder of the county wherein he serves.
31. Public Acts of 1965, Chapter 204, Section 5, created a new 22nd Judicial Circuit comprising the counties of Carroll, Benton, Decatur, and Hardin. Benton County's Circuit Court terms were scheduled to begin on the fourth Monday in January, May, and September.

#### **District Attorney General - Assistants and Criminal Investigators**

The following acts once affecting Benton County are no longer in effect but are listed here for historical purposes.

1. Public Acts of 1899, Chapter 199, Section 5, stated that the Attorney General of the Eleventh Judicial Circuit shall attend upon and perform the duties of that office, as they prescribed by law, in the circuits courts of those counties now composing the Circuit, namely: Madison, Chester, McNairy, Henderson, Decatur, Perry, and Benton.
2. Public Acts of 1899, Chapter 311, amended Public Acts of 1899, Chapter 199, above, by striking out Section Five, and inserting a new Section 5 which provided that the Attorney-General of the 11th Judicial Circuit shall attend and perform the lawful duties of that office in Henderson, McNairy, Chester, Perry, Decatur and Madison Counties, and the Attorney General of the 12th Judicial Circuit shall attend and perform the duties in Benton County.



3. Public Acts of 1967, chapter 65, created the office of Assistant District Attorney General for the Twenty-second Judicial Circuit.
4. Public Acts of 1976, Chapter 560, created an additional office of Assistant District Attorney General for the Twenty-second Judicial Circuit.

#### **Secretarial Assistance**

The following act is no longer in effect but is listed here for historical purposes.

1. Public Acts of 1939, Chapter 71, created the position of Stenographer for the Chancellor of the 8th Chancery Division to which Benton County was assigned.

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