



May 18, 2024

Chapter V - Court System

Dear Reader:

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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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Chapter V - Court System

Circuit Court

Judge, Part II

Public Acts of 1968 Chapter 449

SECTION 1. A Second Judge to be designated as "Judge, Part II" for the First Judicial Circuit is established.

SECTION 2. The Judge in the said Circuit senior in point of service shall be the Senior Judge. If neither Judge is senior in terms of length of service, then the Judge who received the greater number of votes in the last election for the office shall be considered the Senior Judge.

SECTION 3. The Senior Judge of the said circuit shall designate which cases will be tried by each Judge.

SECTION 4. The provisions of this Act shall not apply to the criminal division of the said circuit, and the Criminal Judge of the said circuit shall not be the Senior Judge referred to in this Act.

SECTION 5. The Judge, Part II for the First Judicial Circuit, and his successors, shall be learned in the law and not less than thirty (30) years of age. No appointment shall be made to fill the office created by this Act prior to the August 1968 election, but the Judge, Part II shall be elected at the August election in 1968 by the qualified voters of the First Judicial Circuit and shall hold office from the date of his election until September 1, 1974, and until his successor is elected and qualified; and, at the August election of that year, and thereafter every eight (8) years, there shall be elected by the qualified voters of the said Judicial Circuit a Judge, Part I and a Judge, Part II. The Judge, Part II will receive the same salary, payable in like manner, and have the same powers of the Circuit Judges of this State and may interchange with any of the Circuit Judges and Chancellors of this State.

SECTION 6. This Act shall take effect upon becoming a law, the public welfare requiring it.
Passed: March 14, 1968.

Criminal Court

Public Acts of 1957 Chapter 54

SECTION 1. That a Criminal Court is hereby created and established in the First Judicial Circuit of Tennessee, for the Counties of Washington, Carter, Unicoi and Johnson, to be known as the "Criminal Court of the First Judicial Circuit of Tennessee."

SECTION 2. That the said Criminal Court shall have general, common law and statutory jurisdiction, original and appellate and exclusive over all criminal cases existing and arising in said counties to the same extent as is now or may hereafter be conferred upon the Circuit Courts and Criminal Courts of this State under the common laws or the statutes and to hear, try and determine all criminal cases.

SECTION 3. That upon the passage of this Act, the Governor of the State of Tennessee, is hereby authorized and directed to appoint a judge of the criminal Court created hereunder; and said Judge shall serve until the next general election, as provided for in Section 4 of this Act. Said Judge shall be clothed with the same powers and jurisdiction as to extraordinary process as are now provided by law for such criminal judges, circuit judges and chancellors in this State, and his salary shall be the same and shall be paid in like manner by the State as that of other criminal and circuit judges of the State.

SECTION 4. That at the general election to be held on the first Thursday in August, 1958, and at all regular elections for judges held thereafter, there shall be elected by the qualified voters of said counties a judge for said Criminal Court for the First Judicial Circuit of Tennessee, in the same manner and with the same tenure of office as other Criminal and Circuit Judges of this State.

SECTION 5. That the District Attorney General of the First Judicial Circuit for Tennessee shall perform the duties of the District Attorney General in the said Criminal Court in the Counties herein named.

SECTION 6. That the Circuit Court Clerks and Sheriffs of the several counties herein named, shall be the Clerks and Sheriffs for the said Criminal Court in said Counties and they shall perform the same duties and receive the same compensation now provided by law for them.

SECTION 7. That all bonds and recognizances heretofore or hereinafter taken and of process heretofore

or hereinafter issued, shall be made returnable to the Court at the times and places fixed by this Act for the holding the said Court in said Counties herein named.

SECTION 8. That it shall be lawful for the Judge of the Criminal Court and the Judge of the First Judicial Circuit to hold each of their Courts in any of the different counties, including the same county, or said Circuit at the same time.

SECTION 9. That the County Courts, Jury Commissioners or other duly existing and authorized authorities of the various counties above set out, shall appoint and select juries for said Criminal Court, according to the law now controlling in the above counties respectively, who shall be summoned to attend and bound to appear at said criminal court and shall have the same pay, qualifications, powers and privileges and shall be organized as now, under existing law as the law provides with reference to Grand Juries and all other juries of courts, but all bills of indictment, presentment and information shall be returned to said Criminal Court.

SECTION 10. That all criminal cases now existing or pending in the Circuit Courts of said named counties, on the passage of this Act, shall by virtue of the provisions of this Act, automatically be transferred to the said Criminal Court herein established in said counties respectively and said cases shall be tried and determined therein by this said Criminal Court. The Clerks of the respective Circuit Courts in the aforesaid counties shall immediately upon the passage of this Act, transfer all Criminal proceedings and papers from the Circuit Court for said Counties to the Criminal Court and shall procure and keep the proper books, records and minutes for the said Criminal Court. The Clerk shall keep the records, papers, minutes and proceedings of the Circuit Court and the Criminal Court separate. All Courts of General Sessions and Justices of the Peace or other inferior courts in the various herein named counties shall bind over offenders against the State laws to said Criminal Court as heretofore they have been bound over to the Circuit Court.

SECTION 11. That all appeals, writs of error and appeals in the nature of writs of error, shall be prosecuted from the judgments of the said Criminal Court to the Supreme Court and as from other Criminal Courts of this State.

SECTION 12. [Deleted by Public Acts of 1984, Chapter 931].

SECTION 13. That all laws and parts of laws now existing in conflict with this Act and its full intentions be and the same are hereby repealed.

SECTION 14. That this Act take effect from and after its passage, the public welfare requiring it.
Passed: February 20, 1957.

District Attorney General

Assistants and Criminal Investigators

Public Acts of 1967 Chapter 135

SECTION 1. There is created the office of an additional assistant district attorney general for the first judicial circuit. The district attorney general of the first judicial circuit is authorized to appoint a suitable person to the office, to serve at the pleasure of the district attorney general. The person appointed to the office shall be at least twenty-one (21) years of age, shall be learned in the law and shall be licensed to practice law in the State of Tennessee.

SECTION 2. The additional assistant attorney general shall perform such duties and functions as may be assigned and directed by the district attorney general of the first judicial circuit.

SECTION 3. The additional assistant district attorney general shall receive an annual salary of four thousand eight hundred dollars (\$4,800.00) payable in equal monthly installments out of the treasury of the state, upon warrant of the Commissioner of Finance and Administration. If the general assembly should by general law increase the salaries of assistant attorneys general as provided in Section 8-708, Tennessee Code Annotated, the compensation of the additional assistant attorney general for the first judicial circuit shall be the same amount per year as that provided by general law for such assistants.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.
Passed: April 25, 1967.

Public Acts of 1971 Chapter 196

SECTION 1. There is created the office of an additional Assistant District Attorney General for the First

Judicial Circuit. The District Attorney General of the First Judicial Circuit is authorized to appoint a suitable person to the office, to serve at the pleasure of the District Attorney General. The person appointed to the office shall be at least twenty-one (21) years of age, shall be learned in the law and shall be licensed to practice law in the state of Tennessee.

SECTION 2. The Assistant Attorney General shall perform such duties and functions as may be assigned and directed by the District Attorney General of the First Judicial Circuit.

SECTION 3. The Assistant District Attorney General for the First Judicial Circuit shall receive an annual salary in equal monthly installments out of the treasury of the state as provided in Section 8-708, Tennessee Code Annotated.

SECTION 4. This Act shall take effect upon becoming a law, the public welfare requiring it.
Passed: May 10, 1971.

Public Acts of 1976 Chapter 545

COMPILER'S NOTE: The following act is a public act of special application and is not codified in Tennessee Code Annotated.

SECTION 1. There is established one (1) additional position of Assistant District Attorney General for the First Judicial Circuit of the State of Tennessee. That one (1) additional position of full-time Assistant District Attorney General shall be compensated according to the provisions of Tennessee Code Annotated, Section 8-708

SECTION 2. The aforesaid one (1) additional position of Assistant District Attorney General shall be appointed by the District Attorney General for the First Judicial Circuit and shall serve at his pleasure.

SECTION 3. This Act shall take effect on becoming a law, the public welfare requiring it.

No state funds shall be expended to fund the provisions of this act prior to July 1, 1976 and all acts creating additional District Attorney General or Assistant District Attorney General, Criminal Investigator or Judicial positions which are enacted during the 1976 session of the Eighty-Ninth General Assembly shall be given the priority in funding over this act, and no appropriation shall be made for the fiscal year 1976-77 except through the General Appropriations Bill and amendments thereto, or surplus funds otherwise available in the Judicial Budget, and no District Attorney General appointed or elected until said funds are available.

Passed: March 11, 1976.

General Sessions Court

Probate Jurisdiction

Private Acts of 1981 Chapter 98

SECTION 1. The Judge of the General Sessions Court of Unicoi County is hereby vested with jurisdiction over the probate of wills and the administration of estates, and all matters relating thereto, previously vested in the County Court, the County Judge or County Chairman, and the Chancery Court. However, to assist the Judge of the General Sessions Court, the County Court Clerk shall be authorized and empowered to grant letters of administration and letters testamentary, appoint administrators and executors, receive and adjudicate all claims, probate wills in common form, determine allowances to surviving spouse and family of the deceased, preside over the assignment of homestead, direct and approve final distributions, and hear and determine all probate matters whether herein enumerated or not. Subject to the approval of the General Sessions Judge, such clerk may also take and state all accounts and settlements. The Judge of the General Sessions Court shall hear all probates in solemn form and may hear such other probate matters as he may deem proper. All action taken by the County Court Clerk shall be subject to review by the Judge of the General Sessions Court by simple motion, petition, or the filing of exceptions as may be appropriate.

SECTION 2. The Circuit Court for Unicoi County shall hear all appeals from the decisions of the Judge of the General Sessions Court.

SECTION 3. The procedure, rules of practice and laws governing the administration of estates in probate shall be the same as are now in effect, except where expressly changed by this Act.

SECTION 4.

- (a) All probate matters and the administration of any estate pending in any other court in Unicoi such matter as if it had originated in such court.
- (b) Upon approval of this Act by the county legislative body, all records and other documents relating to a probate matter or the administration of an estate in Unicoi County, except those records and documents that relate to a pending case, shall be transferred to the General Sessions Court of Unicoi County.

SECTION 5. This Act shall have no effect unless it is approved by a two-thirds ($\frac{2}{3}$) vote of the county legislative body of Unicoi County before January 1, 1982. Its approval or nonapproval shall be proclaimed by the presiding officer of the Unicoi county legislative body and certified by him to the Secretary of State.

SECTION 6. 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 thirty (30) days after being approved as provided in Section 5. Passed: April 20, 1981

Court System - Historical Notes

Board of Jury Commissioners - Jurors

The following acts once affected jurors or boards of jury commissioners in Unicoi County, but are no longer operative.

1. Private Acts of 1943, Chapter 221, created a three member board of jury commissioners in Unicoi County who were to be appointed by the circuit judge. This act was amended by Private Acts of 1945, Chapter 35, which lowered the minimum number of names to be submitted as perspective jurors from 100 to 400.
2. Private Acts of 1949, Chapter 159, provided that every regular juror serving on a jury in Unicoi County would be paid \$5.00 daily for such services from funds in the county treasury.

Chancery Court

The following acts form an outline of the development of equity jurisdiction in Unicoi 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 1877, Chapter 40, set the time for holding the Unicoi County Chancery Court to the first Mondays in January and July at Vanderbilt.
2. Acts of 1885 (Ex. Sess.), Chapter 20, placed Unicoi County in the first chancery division along with Johnson, Carter, Washington, Sullivan, Hawkins, Greene, Hancock, Claiborne, Grainger, Jefferson, Cocke and Hamblen counties. The time for holding said court in Unicoi County was set for the first Mondays in January and July.
3. Public Acts of 1891, Chapter 165, placed Unicoi County in the first chancery division along with Johnson, Carter, Washington, Sullivan, Hawkins, Hancock, Claiborne, Grainger, Hamblen, Cocke, Greene, and Jefferson counties. The time for holding said court was set on the third Mondays in May and November.
4. Public Acts of 1899, Chapter 427, divided the state into ten chancery divisions. Unicoi County was placed in the first chancery division along with Johnson, Carter, Sullivan, Washington, Greene, Hawkins, Hancock, Claiborne, Grainger, Hamblen and Cocke counties. The time for holding said court in Unicoi County was set for the third Mondays in March and September. This act was amended by Private Acts of 1901, Chapter 438, by placing Unicoi County in the second chancery division along with Hawkins, Hamblen, Grainger, Claiborne, Hancock, Union, Campbell, Anderson, Roane, Loudon and Scott counties. The time for holding said court in Unicoi County was set for the third Mondays in May and November.
5. Private Acts of 1927, Chapter 407, changed the time for holding the Unicoi County Chancery Court to the second Mondays in June and December.
6. Public Acts of 1931 (2nd Ex. Sess.), Chapter 38, placed Unicoi County in the first chancery division, along with Johnson, Carter, and Sullivan counties. The time for holding said court was set for the second Mondays in June and December.

Chancery Court - Clerk and Master

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

1. Public Acts of 1897, Chapter 124, set the salary of the Unicoi County Clerk and Master at \$1,000 per annum.
2. Private Acts of 1911, Chapter 333, set the salary of the Unicoi County Chancery Court Clerk at

\$500 per annum. This act was amended by Private Acts of 1917, Chapter 187, by eliminating the fees of the clerk and master for making transcripts to the appellate courts from his accounting for salary, same to be regarded as his separate earnings. Private Acts of 1921, Chapter 32, further amended Acts of 1911, Chapter 333, by increasing the salary of the clerk and master from \$500 to \$1,200 annually. Private Acts of 1925, Chapter 656, further amended Private Acts of 1911, Chapter 333, above, by excepting from those fees required to be listed in the report of the clerk and master those fees collected as commissions on the sale of land by his office. The report was the one to be filed by January 1, with the county judge or court showing all the fees collected.

3. Private Acts of 1949, Chapter 214, provided that the clerk and master of Unicoi County would be paid a salary of \$1,800 annually if he filed a report with the county judge, or chairman, every month, sworn to and itemized, showing the amount of fees paid into his office.

Circuit Court

The following acts were once applicable to the circuit court of Unicoi County but now have no effect, having been repealed, superseded, or having failed to win local approval.

1. Public Acts of 1877, Chapter 40, set the time for holding the Unicoi County Circuit Court to the fourth Mondays in February, June and October.
2. Public Acts of 1879, Chapter 45, set the time for holding the Unicoi County Circuit Court to the first Mondays of July, November and March.
3. Acts of 1885 (Ex. Sess.), Chapter 20, placed Unicoi County in the first judicial circuit, along with Johnson, Carter, Sullivan, Washington, Greene, Hawkins and Hancock counties. The time for holding said court for Unicoi County was set for the first Mondays in March, July and November. Public Acts of 1889, Chapter 74, amended Acts of 1885 (Ex. Sess.), Chapter 20, by placing the counties of Unicoi, Johnson, Carter, Sullivan, Washington, Greene, Hawkins and Hancock in the first judicial circuit. The time for holding said court in Unicoi County was set for the fourth Mondays in February, June and October.
4. Public Acts of 1899, Chapter 427, divided the state into fourteen judicial circuits. Unicoi County was placed in the first judicial circuit along with the counties of Johnson, Carter, Sullivan, Washington, Greene, Hawkins, Hancock and Claiborne. The time for holding said court in Unicoi County was set for the third Mondays in February, June and October.
5. Acts of 1903, Chapter 198, changed the court dates in Unicoi County for the circuit court to the second Mondays in January, May and September.
6. Private Acts of 1921, Chapter 303, fixed the times for holding the circuit court of Unicoi County to the second Mondays in January, May and September.
7. Private Acts of 1927, Chapter 407, assigned Unicoi, Johnson, Carter and Washington counties to the first judicial circuit changing the court terms for Unicoi to the fourth Mondays in March, July, and November.
8. Public Acts of 1931 (2nd Ex. Sess.), Chapter 38, placed Unicoi County in the first judicial circuit, along with Washington, Johnson and Carter counties. The time for holding said court was set for the fourth Mondays in March, July and November.
9. Public Acts of 1953, Chapter 18, showed the first judicial circuit to be composed of Unicoi, Washington, Carter and Johnson counties. Court terms at Erwin for Unicoi County commenced on the first Monday in April, August, and December.

Circuit Court - Clerk

The following acts have no current effect, but once applied to the Unicoi County Circuit Court Clerk. They were repealed, superseded, or never received local approval.

1. Public Acts of 1897, Chapter 124, set the salary of the Unicoi County Circuit Court Clerk at \$800 per annum.
2. Acts of 1903, Chapter 255, set up a salary schedule for circuit court clerks by counties according to population; the Unicoi County Circuit Court Clerk received \$500 annually.
3. Private Acts of 1921, Chapter 124, set the salary of the circuit court clerk of Unicoi County at \$1,000 payable quarterly in January, April, July and October, but required that an accurate record of the fees collected shall be kept and filed quarterly showing the amount of the fee and the source from which it was collected. If the fees were less than the salary, the county would make up the difference. This act was amended by Private Acts of 1923, Chapter 281, by increasing the salary of the circuit court clerk from \$1,000 to \$1,200 yearly.
4. Private Acts of 1949, Chapter 213, fixed the salary of the circuit court clerk in Unicoi County at

\$1,800 annually, payable monthly, but also on condition that he file a sworn, itemized statement with the judge or the chairman, between the first and tenth days of every month, showing the amount of the fees paid into his office during the preceding month.

Criminal Court

The following acts once pertained to the Unicoi County Criminal Court, but are no longer current law.

1. Public Acts of 1897, Chapter 124, set the salary of the Unicoi County Criminal Clerk at \$800 per annum.
2. Public Acts of 1899, Chapter 427, set the time for holding the Unicoi County Criminal Court to the third Mondays in February, June and October.
3. Private Acts of 1925, Chapter 131, created a separate criminal court for the first judicial circuit composed at the time of Unicoi, Greene, Washington, Carter and Sullivan counties. The time for holding said court in Unicoi County was fixed to the second Mondays in March, July and November. Appropriate transfer of criminal jurisdiction took place in the act with provisions for the clerk of the circuit court and the sheriff to serve this court as they had previously served the circuit court. This act expired under its own terms on August 1, 1926, carrying this special court with it.
4. Public Acts of 1957, Chapter 47, amended T.C.A. 16-207, by changing the court dates for the criminal court of the first judicial circuit. Court times for Unicoi were to begin on the first Mondays in April, August and December.

District Attorney General - Assistants and Criminal Investigators

The following act once affecting Unicoi County is no longer in effect but is listed here for historical purposes.

1. Public Acts of 1971, Chapter 324, created the position of a secretary to the district attorney general of the first judicial district. The salary for this position was \$4,800 per annum.

General Sessions

The following act once affected the general sessions court of Unicoi County, but is no longer in effect and is included herein for reference purposes.

1. Private Acts of 1955, Chapter 161, would have created a court of general sessions for Unicoi County, but this act was not approved at the local level and therefore did not become a law.

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