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## Chapter V - Court System

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# Chapter V - Court System

## Juvenile Court

### Private Acts of 1994 Chapter 161

**SECTION 1.** The duties of clerk of Juvenile Court shall be transferred from the County Clerk to the Clerk of the Circuit Court on the first day of the month following approval of this act by the county legislative body. All records of the Juvenile Court in the custody of the county clerk shall be transferred from the County Clerk to the Circuit Court Clerk within thirty (30) days of the approval of this act by the county legislative body.

**SECTION 2.** This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Hardeman County. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and certified to the Secretary of State.

**SECTION 3.** 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 upon being approved as provided in Section 2.

Passed: April 6, 1994.

## Court System - Historical Notes

### Chancery Court

The following acts form an outline of the development of equity jurisdiction in Hardeman County, although they no longer have the force of law since they have either been superseded by general law, repealed, or failed to receive local ratification.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 1824, Chapter 14, required that the Judges of the Supreme Court make the arrangements among themselves to hold the Chancery Courts of the State at least twice each year at Greenville, Rogersville, Kingston, McMinnville, Franklin, Columbia, Charlotte, Jackson, and at Carthage. The Court would be held west of the Tennessee River on the second Monday in April and October in Jackson.
2. Public Acts of 1827, Chapter 79, divided the State into two Chancery Divisions, the Eastern and the Western. The Courts in the Western Chancery Division were held at Franklin, Columbia, Charlotte, Jackson, and Paris.
3. Public Acts of 1829, Chapter 52, created a Tenth Judicial Circuit composed of Wayne, Hardin, McNairy, Hardeman, Fayette, and Shelby Counties. The Judge of the Circuit would be elected by the ballot of both houses of the General Assembly. The Counties would also constitute a Chancery Division, the Court for which would meet at Bolivar on the first Monday of May and November. A Clerk and Master would be appointed who would serve under the same rules and regulations as other Clerks and Masters in the State.
4. Public Acts of 1829, Chapter 104, changed the time of beginning terms of the Chancery Court of the Tenth Judicial District which met at Bolivar in Hardeman County to the second Monday in March and September.
5. Public Acts of 1835-36, Chapter 4, enacted after the adoption of the 1835 Constitution, separated the State into three Chancery Divisions which were further divided into Districts. Three Chancellors would be appointed by the joint ballot of the General Assembly to preside over the Courts instead of the Supreme Court Justices. These Chancellors would hold Court at least twice each year. Hardeman and McNairy Counties were in the Ninth District of the Western Division, the Court for which would be held in Bolivar on the first Monday in June and December.
6. Acts of 1837-38, Chapter 14, declared that the Counties of Fayette, Shelby, Hardeman, and McNairy would compose one Chancery District in the Western Division. The Court would meet at Somerville on the fourth Monday in May and November.
7. Acts of 1851-52, Chapter 345, provided that Hardeman County would compose one Chancery Division, the Court for which would start on the fourth Monday of April and October at Bolivar. The act directed the Clerk and Master of the Court at Somerville to transfer case records involving citizens of Hardeman County to the Court at Bolivar upon application of either party in the case.
8. Acts of 1853-54, Chapter 55, Section 5, changed the times for starting Chancery Court terms

effective after the Chancellors of the State had been elected. Court terms at Bolivar in Hardeman County would commence on the first Monday in March and September.

9. Acts of 1855-56, Chapter 158, rearranged the starting dates for many of the Chancery Courts in the Western Chancery Division of the State including Hardeman County, the Court for which would begin on the first Monday in June and December.
10. Public Acts of 1857-58, Chapter 88, reorganized the entire lower judicial system in Tennessee. The State was separated into the Eastern, Middle, Western, Fourth, Fifth, and Sixth Chancery Divisions. Hardeman County was assigned to the Western Division, also containing the Counties of Weakley, Henry, Obion, Dyer, Madison, Haywood, Fayette, Tipton, Lauderdale, Gibson, and Shelby. Chancery Court would begin on the second Monday in May and the first Monday in November at Bolivar.
11. Private Acts of 1857-58, Chapter 93, provided that the Chancery Court of Hardeman County, held at Bolivar, would begin its terms on the second Monday in May and November.
12. Private Acts of 1859-60, Chapter 178, stated that after the passage of the act, the Judge of the Fourteenth Judicial Circuit would preside over the Chancery Courts for Hardeman and Madison Counties. The Court in Bolivar would be held on the second Monday in February and August for Hardeman County.
13. Public Acts of 1865-66, Chapter 14, Section 2, rescheduled the opening dates of the Chancery Court at Decaturville, Linden, and Bolivar. The Court would begin in Bolivar on the third Monday in March and September.
14. Public Acts of 1869-70 (2nd Ex. Sess.), Chapter 32, divided Tennessee into twelve Chancery Districts. The Tenth District was composed of the Counties of Hardeman, Madison, Haywood, Tipton, Fayette, and Lauderdale.
15. Public Acts of 1869-70 (2nd Ex. Sess.), Chapter 47, scheduled the starting dates for both terms of the Chancery Court in every county of the State. In Hardeman County the Chancery Court would meet at Bolivar on the second Monday of January and July.
16. Public Acts of 1879, Chapter 122, set the term of the Chancery Court for Hardeman County to begin on the second Monday in June and December.
17. Acts of 1885 (Ex. Sess.), Chapter 20, reorganized the entire lower judicial structure of Tennessee. The act created eleven Chancery Divisions of which the Ninth was made up of the Counties of Hardeman, McNairy, Chester, Madison, Crockett, Henderson, Carroll, and Henry with the Courts in Hardeman scheduled to begin on the third Monday in March and September. This act was the subject of litigation in *Flynn v. State*, 203 Tenn. 341, 313 S.W. 2d 249 (1958).
18. Public Acts of 1887, Chapter 111, changed the schedule of court terms in some of the counties in the Ninth Chancery Division. The third Monday in March and September remained the days when Chancery Court terms begin in Hardeman County.
19. Public Acts of 1899, Chapter 427, created ten Chancery Divisions in the State. Dyer, Obion, Lake, Weakley, Gibson, Lauderdale, Fayette, Haywood, Tipton, and Hardeman Counties composed the Ninth Chancery Division. Court terms would begin in Hardeman County on the fourth Monday in May and the second Monday in December.
20. Acts of 1901, Chapter 35, amended Public Acts of 1899, Chapter 427, above, by transferring Hardeman County out of the Ninth Chancery Division into the Eighth Chancery Division.
21. Acts of 1903, Chapter 36, rescheduled Chancery Court terms in the Eighth Chancery Division. Court terms for Hardeman County would begin on the third Monday in March and September.
22. Public Acts of 1931 (2nd Ex. Sess.), Chapter 38, reorganized the entire system of lower courts in the State. The act created fourteen Chancery Divisions. The Counties of Carroll, Henry, McNairy, Crockett, Henderson, Decatur, Hardin, Benton, Chester, and Hardeman were assigned to the Eighth Division. Court would begin in Hardeman County on the third Monday in March and September.
23. Public Acts of 1973, Chapter 356, transferred Hardeman County from the Eighth Chancery Division to the Ninth Chancery Division.
24. Public Acts of 1974, Chapter 547, provided an additional Chancellor for the Ninth Chancery Division and separated the Division into Part I and Part II, designating the Chancellor of Part I as senior.
25. Public Acts of 1976, Chapter 577, amended Public Acts of 1974, Chapter 547, above, by specifying which counties in the Ninth Chancery Division would be placed in each Division Part.

Hardeman County was in Part I and the Court term would begin as the third Monday in March and September.

### **Clerk and Master**

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

1. Private Acts of 1917, Chapter 60, provided that the Clerk and Master of Hardeman County would receive an annual salary of \$900 payable quarterly, on condition that a sworn, itemized statement showing the amount of fees collected by the office be filed with the County Judge or Chairman. The fees allowed the Clerk and Master for his services as special receiver and for loaning and collecting the money in estates were not to be counted. If the fees were less than \$900 per year, the County would pay the difference. If the fees were more, the excess would be paid into the treasury on the order of the County Judge.
2. Private Acts of 1927, Chapter 619, amended Private Acts of 1917, Chapter 60, above, by declaring that the Clerk and Master of Hardeman County, in addition to all the compensations set forth in the original act would receive all commissions on land, or other properties, sold by him, pursuant to the orders of the Court, and would not be required to account for them but could keep them as a part of his compensation.

### **Circuit Court**

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

1. Public Acts of 1823, Chapter 41, fixed the terms of Circuit Court in Hardeman County to begin on the third Monday in April and October.
2. Private Acts of 1823, Chapter 108, directed that the Circuit Court would meet at the home of Thomas McNeil in the newly created Hardeman County on the first Monday in May and November.
3. Private Acts of 1824, Chapter 102, set the dates for the terms of the Circuit Courts in the counties of the Eighth and Ninth Judicial Circuits. In Hardeman County, the terms of the Circuit Court would begin on the third Monday in April and October.
4. Private Acts of 1825, Chapter 318, changed court dates for the Circuit Courts in the Eighth and Ninth Judicial Circuits. Hardeman County would begin Circuit Court terms on the fourth Monday in May and November.
5. Public Acts of 1827, Chapter 53, changed the beginning days for several of the counties in the Eighth and Ninth Judicial Circuits but Hardeman County's Court terms would remain as before except that the Court would stay in session for two weeks.
6. Public Acts of 1829, Chapter 52, created a Tenth Judicial Circuit assigning to it the Counties of Wayne, Hardin, McNairy, Hardeman, Fayette and Shelby. The Judge of the new circuit would be elected by the joint ballot of both Houses of the General Assembly.
7. Public Acts of 1835-36, Chapter 5, reorganized the lower court system of Tennessee into eleven Judicial Circuits and directed that the Circuit Courts hold three terms per year. The Eleventh Judicial Circuit was composed of the Counties of Shelby, Fayette, Hardeman, McNairy, Hardin and Wayne. Circuit Court for Hardeman County would begin on the first Monday in February, June and October.
8. Acts of 1837-38, Chapter 116, rescheduled Circuit Court terms for the Counties of Shelby, Fayette, McNairy and Hardeman. The third Monday in the months of March, July and November was set as the date for opening Court terms in Hardeman County.
9. Acts of 1839-40, Chapter 21, Section 16, fixed the schedule for the terms of the Circuit Courts in several counties throughout the State. In the Eleventh Judicial Circuit, court terms in Hardeman County would begin on the second Monday in January, May and September.
10. Acts of 1841-42, Chapter 149, Section 2, scheduled the terms of the Circuit Court in McNairy and Hardeman Counties to begin on the first Monday in January, May and September.
11. Acts of 1845-46, Chapter 21, changed the dates for Court terms in the Counties of the Eleventh Judicial Circuit. Hardeman County's Circuit Court would begin its terms on the fourth Monday in February, June and October. In addition, the act added McNairy and Decatur Counties to the Fourteenth Judicial Circuit and Tipton County to the Eleventh Circuit.
12. Public Acts of 1857-58, Chapter 98, created sixteen Judicial Circuits for the State of Tennessee. The Fifteenth Circuit was composed of the Counties of Tipton, Shelby, Fayette and Hardeman. Circuit Court terms in Hardeman County would commence on the fourth Monday in February, June and October.

13. Public Acts of 1865-66, Chapter 8, added Hardeman County to the Fourteenth Judicial Circuit and scheduled the terms of the Circuit Court to start on the first Monday in March, July and November.
14. Public Acts of 1865-66, Chapter 14, Section 3, rearranged the commencement dates for some of the Circuit Courts in the Fourteenth Judicial Circuit which contained the Counties of Madison, Haywood, Henderson and Hardeman. The Circuit Court terms in Hardeman County would begin on the fourth Monday in February, June and October.
15. Public Acts of 1869-70 (2nd Ex. Sess.), Chapter 31, divided Tennessee into fifteen regular and one special Judicial Circuits. The Fourteenth Judicial Circuit contained the Counties of Fayette, Tipton, Lauderdale, Hardeman and the Circuit Court at Bartlett in Shelby County.
16. Public Acts of 1869-70 (2nd Ex. Sess.), Chapter 46, scheduled the starting dates for the terms of the Circuit Courts in every county of the State. The Court in Hardeman County, in the Fourteenth Judicial Circuit, would begin on the third Monday in March, July and November.
17. Public Acts of 1885 (Ex. Sess.), Chapter 20, reorganized the State into fourteen regular and one special Judicial Circuits. The Thirteenth Circuit was composed of the Counties of Fayette, Tipton, Lauderdale, Dyer, Lake and Hardeman. The terms of the Circuit Court at Bolivar would start on the first Tuesday in January, May and September.
18. Public Acts of 1899, Chapter 427, reorganized the entire lower court system of the State into fourteen Judicial Circuits. The Counties of Hardeman, McNairy, Hardin, Chester, Henderson, Decatur and Madison were assigned to the Twelfth Judicial Circuit. Court terms for the Hardeman County Circuit Court would commence on the first Monday in January, May and September.
19. Acts of 1905, Chapter 57, created the Sixteenth Judicial Circuit of the State composed of the Counties of Tipton, Fayette, Lauderdale, Hardeman, Madison and McNairy. The Governor would appoint a Judge and an attorney general for the new circuit both of whom would serve until the next general election when their successors would be chosen by popular vote. Circuit Court terms would start at Bolivar on the first Monday in January, May and September. All process was required to conform to those dates.
20. Public Acts of 1931 (2nd Ex. Sess.), Chapter 38, established twenty Judicial Circuits for the State of Tennessee. The Sixteenth Judicial Circuit was composed of the Counties of McNairy, Lauderdale, Madison (for civil purposes), Tipton, Fayette and Hardeman. The terms of the Circuit Court in Hardeman County would commence on the first Monday in January, May and September.

#### **Circuit Court Clerk**

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

1. Acts of 1903, Chapter 255, fixed the salaries of the Circuit Court Clerks of the State. The act required the Clerk to file with the County Judge a sworn, itemized statement showing all fees collected in the office during the year. If the fees failed to equal the specified salary, the county would pay the difference to the Clerk but if the fees were more than the salary, the Clerk was permitted to keep the excess. The annual salary of the Circuit Court Clerk of Hardeman County was set at \$1,000.
2. Private Acts of 1927, Chapter 544, set the salary of the Circuit Court Clerk in Hardeman County at \$1,500 payable at the rate of \$125 a month. The Clerk was required to account for the fees received in his office on an annual basis.
3. Private Acts of 1967-68, Chapter 22, provided that the Circuit Court Clerk of Hardeman County would be allowed \$1,500 a year as compensation for his services in collecting delinquent taxes, which amount would be supplementary to and in addition to the salary allowed by law. The act was not approved by local authorities and did not become effective.

#### **Juvenile Court**

The following act once affecting juvenile courts in Hardeman County is included herein for reference purposes.

1. Private Acts of 1967-68, Chapter 21, created a Juvenile Court for Hardeman County and vested in it concurrent jurisdiction with the County Judge in juvenile matters. The General Sessions Court Judge would preside over the Court and be paid \$1,500 per year extra for his services. The act was not approved by the Quarterly County Court of Hardeman County and did not become effective.

#### **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 office of stenographer for the Eighth Chancery Division. The Chancellor would appoint a competent person to fill the position whose duties would include stenographic work as required by the Chancellors.

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