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## Chapter V - Court System

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Sincerely,

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# Chapter V - Court System

## General Sessions Court

### Private Acts of 1997 Chapter 60

**SECTION 1.** The General Sessions Court Judge of Fayette County shall take office September 1, 1998, and shall be elected at the regular August election in 1998. The judge shall hold office for an eight (8) year term and shall be subject to the conditions and duties of the general law, except as provided in this act. The judge shall be a licensed attorney in good standing, shall devote full time to the duties of the office, and shall be prohibited from the practice of law or any other employment which conflicts with the performance of the judge's duties as judge.

**SECTION 2.** Effective September 1, 1998, the compensation of the judge shall be the same as that for a General Sessions Court Judge in a county of the third class as such classes are provided by the general law in effect on May 1, 1997, and shall be payable in equal monthly installments, and the total salary, including supplements, shall be subject to periodic adjustment according to the provisions of Tennessee Code Annotated, § 8-23-103 in effect on May 1, 1997. It is the express intention of the General Assembly to establish the compensation of the General Sessions Court Judge as a full time judge and as if Fayette County were a county of the third class, as defined in Tennessee Code Annotated, § 16-15-5001, or a subsequent statutory enactment, despite Fayette County not meeting the definition of a county of the third class on the basis of population.

**SECTION 3.** Effective September 1, 1998, the General Sessions Court shall have juvenile jurisdiction and concurrent jurisdiction with the Circuit and Chancery Courts over probate cases, domestic relations cases, and mental health commitments. Regardless of which court is exercising jurisdiction, probate cases, domestic relations cases, and mental health commitments shall continue to be filed in the clerk's office where such cases are currently filed. Notwithstanding any limitation on annual supplements in the general law or a subsequent statutory enactment controlling supplements to the contrary, the Judge of the Court of General Sessions shall receive the total amount of the supplements authorized by the law in effect in May 1, 1997, for such judge. Notwithstanding any provision of law to the contrary, the judge shall also receive ten thousand dollars (\$10,000) a year as a supplement for conducting mental health commitment proceedings.

**SECTION 4.** This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the Legislative Body of Fayette 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 5.** 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 4.

Passed: May 21, 1997.

## Court System - Historical Notes

### Board of Jury Commissioners - Jurors

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

1. Acts of 1835-36, Chapter 3, was passed subsequent to the 1835 State Constitution and established a Supreme Court, composed of three Judges, one from each Grand Division of the State, in which the Court would meet each year at Knoxville, Nashville, and Jackson. Fayette and 16 other counties were assigned to the Western Division.
2. Private Acts of 1929, Chapter 97, provided that, thereafter in Fayette County, identified by the use of the 1920 Federal Census, jurors would be paid as compensation for their services the sum of \$3 per day for each day served, but the Foreman of the Grand Jury of the county would be paid \$5 for each day served.
3. Private Acts of 1943, Chapter 202, created a three member Board of Jury Commissioners who would be appointed by the Circuit Judge and hold office at the Judge's pleasure. They would be householders or freeholders of the county and not have any litigation pending. Two members of the Board were authorized to act in all matters. Commissioners would be sworn as prescribed in the Act and organized by selecting one of their members as Chairman. The Circuit Court Clerk,

also sworn, would serve as a Clerk to the Board. The Commissioners would select at least 200 names of persons meeting the state law qualifications for jurors whose names were to be written upon slips of paper and placed in the jury box and recorded in the book kept for that purpose. At least 20 days before the opening of Court, the Board would meet and cause at least 40 names to be drawn from the box by a child under the age of ten which would be the jury venire for that term of court. The Board would certify the list drawn by the child, leaving one copy with the Clerk and filing the others with the Court. At least ten days prior to the opening of Court, the Clerk would deliver a list to the Sheriff who would summon the people selected. The Grand Jury would be drawn from those selected in open court but the Judge could appoint the Foreman personally. Commissioners were to be paid \$5 per day but not over \$25 in one year. Penalties were provided for violators and no one could be excused except by the Judge.

### **Chancery Court**

The following acts form an outline of the development of equity jurisdiction in Fayette 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. Acts of 1824, Chapter 14, revised most of the details of the lower court system of Tennessee as related to the Chancery Courts and made it the duty of the Justices of the Supreme Court to hold the Chancery Courts of the State at the times and places specified. The Court for all the counties west of the Tennessee River, which were not previously named, would be held at Jackson in Madison County on the second Monday in April and October.
2. Acts of 1827, Chapter 79, set two terms for the Chancery Courts for the Divisions then in operation but did not change the organization west of the Tennessee River which would continue to operate as they had in the past. The other Courts would meet at Franklin, Columbia, Charlotte, and Paris, in addition to the Court of Chancery at Jackson.
3. Acts of 1829, Chapter 52, stated that the Circuit composed of Wayne, Hardin, McNairy, Hardeman, Shelby, and Fayette Counties would also be a Chancery Division which would hold the Court for the District at Bolivar, in Hardeman County, on the first Monday in May and in November. A Clerk and Master would be appointed for the court at Bolivar who would serve as other Clerks and Masters and be paid the same.
4. Acts of 1829, Chapter 104, changed the opening dates for the times of the Chancery Court meeting at Bolivar to the second Monday in March and September instead of the first Monday in May and November, all conflicts being expressly repealed.
5. Acts of 1835-36, Chapter 4, enacted pursuant to the 1835 State Constitution, divided Tennessee into three Chancery Districts, the courts of each of which would be presided over by a Chancellor, instead of the Supreme Court Justices, who would be appointed by joint ballot of the General Assembly, and who would continue to hold the Courts at least twice each year. Each Grand Division was further broken down into Chancery Districts under this law. The Seventh District of the Western Division was composed of the counties of Fayette and Shelby, and the Court for the District would meet at Somerville on the fourth Monday in May and November each year.
6. Acts of 1837-38, Chapter 14, declared that the Counties of Fayette, Shelby, Hardeman, and McNairy would thereafter compose a Chancery District in the Western Division whose court was to convene at Somerville on the fourth Monday in May and November. The Court formerly meeting at Bolivar was abolished and all of the cases pending in that Court concerning the four counties mentioned above were ordered to be transferred to the Court at Somerville. The Chancellor of the Western Division was to appoint a Clerk and Master to serve at Huntingdon, one at Somerville, and one at Charlotte, provided that the present Clerks and Masters continued in office until the appointments were made. The Clerk and Master, when appointed, would name a Deputy to stay at the county seat of each of the counties.
7. Acts of 1839-40, Chapter 108, required the Chancellor of the Western Division to hold a special term of the Chancery Court at Somerville in Fayette County on the first Monday in March next with the authority to try all pending cases.
8. Acts of 1845-46, Chapter 21, provided that all the cases in Chancery arising in the counties of Shelby and Tipton, which were formerly tried in the Chancery Court at Somerville, were transferred to the new Chancery Court at Memphis for the counties of Shelby and Tipton.
9. Acts of 1851-52, Chapter 352, declared that all suits in Chancery originating in Tipton County would thereafter be brought and tried in the Chancery Court at Somerville in Fayette County.
10. Acts of 1853-54, Chapter 55, stated that, after the election of the Chancellors in the State by the people, the Chancellor at Bolivar would hold court on the first Monday in March and September

and the Chancery Court at Somerville was to begin its term on the third Monday in March and September of each year.

11. Acts of 1855-56, Chapter 158, scheduled the Chancery Court terms for all the counties in the Western Division which were Henry, Weakley, Obion, Dyer, Gibson, Tipton, Hardeman, Lauderdale, Madison, Haywood, and Fayette where the court would convene on the second Monday in May and November.
12. Acts of 1857-58, Chapter 88, organized the Chancery Courts of the State into the Eastern, Middle, Western, Fourth, Fifth, and Sixth Divisions. Fayette County was in the Western Division which also had in it the counties of Henry, Weakley, Obion, Dyer, Madison, Haywood, Hardeman, Tipton, Lauderdale, Gibson, and Shelby. Court would commence in Somerville for Fayette County on the third Monday in May and the second Monday in November.
13. Acts of 1857-58, Chapter 93, Section 6, changed the Chancery Court terms in Hardeman, Tipton, Lauderdale, and Fayette Counties, where the Chancery Court terms would begin on the third Monday in May and November at Somerville.
14. Acts of 1866-67, Chapter 4, provided that the terms of the Chancery Court at Somerville in Fayette County would be held on the second Monday in May and the first Monday in November.
15. Acts of 1870, Chapter 32, organized the entire system of Equity Courts in Tennessee into 12 Chancery Districts. The 10th Chancery District was made up of the counties of Hardeman, Madison, Haywood, Tipton, Fayette, and Lauderdale.
16. Acts of 1870, Chapter 47, scheduled the court terms for the Chancery Courts of every county in the state. Fayette County would commence the terms of the Chancery Court on the second Monday in March and September.
17. Acts of 1873, Chapter 107, amended Acts of 1870, Chapter 47, Section 10, above, by changing the opening dates of the Chancery Court terms in Fayette County to the fourth Monday in March and September.
18. Acts of 1885 (Ex. Sess.), Chapter 20, was the next complete revision of the lower court system of the state, forming eleven Chancery Divisions. The 10th Chancery Division comprised the counties of Fayette, Tipton, Haywood, Lauderdale, Dyer, Obion, Weakley, and Gibson. Court would begin in Somerville in Fayette County on the first Monday in February and August. This Act, and others, was cited in the case of Flynn v. State, 203 Tenn. 341, 313 S.W.2d 249 (1958).
19. Acts of 1889, Chapter 23, rearranged the terms of court for several of the Chancery Courts in the 10th Chancery Division but allowed Fayette County to continue the court dates of the first Monday in February and August.
20. Acts of 1895, Chapter 99, changed the opening dates for the Chancery Court terms of several of the counties in the 10th Chancery Division, including Haywood, Tipton, Obion, Gibson, Dyer, Lauderdale, Weakley, and Fayette whose Chancery Court terms would begin on the fourth Monday in April and October.
21. Acts of 1899, Chapter 427, was a major reorganization of the entire lower judicial system of Tennessee. The State was divided into ten Chancery Divisions of which the Ninth contained the counties of Dyer, Obion, Lake, Weakley, Gibson, Lauderdale, Haywood, Tipton, Hardeman, and Fayette where the Chancery Court would begin its terms on the third Monday in April and October.
22. Acts of 1903, Chapter 591, rearranged the schedule of court terms in the 9th Chancery Division shifting Fayette County's Court to open on the second Monday in May and November.
23. Public Acts of 1931 (2nd Ex. Sess.), Chapter 38, was the next complete overhaul of the lower court system and the last to appear in the volumes of the Private Acts. All changes hereafter would be Public Acts and appear in the Tennessee Code Annotated. Fourteen Chancery Divisions were formed of which the 9th Division was made up of the counties of Dyer, Gibson, Haywood, Lake, Obion, Lauderdale, Tipton, Weakley, and Fayette whose Chancery Courts were set to start its terms on the second Monday in May and November.
24. Public Acts of 1974, Chapter 547, created an additional Chancellor for the 9th Chancery Division to be elected in the regular August election in 1974. This act has been superseded by T.C.A. 16-2-506 which included Fayette County in the 25th Judicial District.

#### **Chancery Court - Clerk and Master**

The reference list below contains acts which once applied to the clerk and master in Fayette County. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Acts of 1837-38, Chapter 117, stated that nothing in a prior act, passed earlier in the session

which regulated the Chancery Courts of the Western Division would be so construed as to affect any of the Clerks and Masters at Somerville, Huntingdon, Charlotte, and Brownsville, who could hold their offices until their term expires.

2. Private Acts of 1919, Chapter 274, provided that females over the age of 21 years, married or single, and residents of the county appointing them, were eligible to be appointed as Deputies in the office of the Clerk and Master of the Chancery Court. The act was in force in the counties of Weakley, Rutherford, Montgomery, Greene, Giles, and Fayette.
3. Private Acts of 1919, Chapter 575, fixed the annual salary of the Clerk and Master of Fayette County at \$1,000, provided the Clerk and Master filed a sworn, itemized statement annually with the County Judge, or Chairman, showing the total amount of fees collected the previous year. If the fees were less than the salary, the County was required to pay the difference, but, if the fees were more, the Clerk and Master could keep the excess portion as his own.
4. Private Acts of 1919, Chapter 687, declared that women over the age of 21 years were eligible to serve as Deputies in the offices of all the Court Clerks in Fayette County with all the rights, privileges, powers, and obligations as any other Deputy serving in the same office.
5. Private Acts of 1919, Chapter 731, provided that women over the age of 21 and residents of the County were eligible for appointment to the office of Deputy Clerk and Master in Fayette County, identified by the use of the 1910 Census figures. They would have and exercise all rights, privileges, powers, and authority as other Deputy Clerks and Masters.
6. Private Acts of 1927, Chapter 8, fixed the annual salary of the Clerk and Master in Fayette County at \$1,500 but, if the fees of the office exceeded that amount, the Clerk and Master would be allowed to retain the surplus. In the accounting of the fees, the Clerk and Master did not have to include those received for service as a Special Receiver, or as a Commissioner. The Clerk and Master must file a sworn, itemized statement at the end of the year with the County Judge, or Chairman, showing the fees collected. If they do not equal the salary, the county must pay over the difference.
7. Private Acts of 1927, Chapter 695, amended Private Acts of 1919, Chapter 575, above, by increasing the annual salary of the Clerk and Master from \$1,000 to \$1,500, payable under the same terms and conditions which were not changed.
8. Private Acts of 1931, Chapter 333, amended Private Acts of 1919, Chapter 575, above, by adding a provision to the effect that the fees and allowances received by the Clerk and Master when acting as Trustee, Receiver, or Special Commissioner, by appointment of the court, and the fees and commissions received from the collection of delinquent taxes, would not be included in the itemized statement of the fees collected which was to be filed under the requirements of that act. This act was repealed by the one following.
9. Private Acts of 1933, Chapter 324, expressly repealed Private Acts of 1931, Chapter 333, above, in its entirety.

### **Circuit Court**

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

1. Acts of 1824, Chapter 36, which formed Fayette County, provided for the Circuit Court of the county to meet at the house of Robert G. Thornton on the fourth Monday in June and December until otherwise provided by law, court to be in session for one week under the same rules and regulations as other courts. Fayette County was assigned to the 8th Judicial Circuit.
2. Acts of 1824, Chapter 102, reset the court terms for the Circuit Courts of the counties in the 8th and 9th Judicial Circuits. The counties named, without placing them in the circuits, were Wayne, Hardin, Madison, Haywood, Tipton, Shelby, McNairy, Gibson, Dyer, Obion, Weakley, Hardeman, and Fayette whose Circuit Court would convene on the second Monday in April and October.
3. Acts of 1825, Chapter 102, stated that the Circuit and County Courts for Fayette County would thereafter be held in Somerville and all process which was outstanding and returnable to the house of Robert G. Thornton was to be returned to Somerville. Joseph Cotton, Robert Cotton, Thomas G. Hudson, John Brown, Miles Beauford, and David Jernigan were named as additional Commissioners for the town of Somerville.
4. Acts of 1825, Chapter 318, rescheduled the Circuit Court terms for the counties in the 8th and 9th Judicial Circuits. The counties involved were McNairy, Hardeman, Shelby, Tipton, Haywood, and Madison. The Circuit Court would start on the first Monday in June and December in Somerville in Fayette County.

5. Acts of 1827, Chapter 53, rearranged the terms of the Circuit Court in the 8th Judicial Circuit transferring Fayette County to the second Monday in June and December.
6. Acts of 1829, Chapter 52, formed the 10th and 11th Judicial Circuit in Tennessee. The Tenth Judicial Circuit was composed of the counties of Wayne, Hardin, McNairy, Hardeman, Shelby, and Fayette. The Judges of the new circuits would be elected by the joint ballot of both Houses of the General Assembly and be compensated to the same extent as any other Judge.
7. Acts of 1835-36, Chapter 5, was enacted subsequent to the formation and adoption of the 1835 Constitution. Circuit Courts would be established throughout the State and be held three times a year in each county. Eleven Judicial Circuits were organized in the State with the counties of Shelby, Fayette, Hardeman, McNairy, Hardin, and Wayne being designated as the 11th Judicial Circuit. The Circuit Court of Fayette County would convene on the third Monday in January, May, and September.
8. Acts of 1837-38, Chapter 116, changed the opening dates for several counties throughout the State. Section 7 of this Act changed the terms for the Circuit Courts in Shelby, Hardeman, McNairy, and Fayette Counties. The Circuit Court in Somerville would start its terms on the fourth Monday in February, June, and October.
9. Acts of 1839-40, Chapter 21, Section 16, reset the terms of the Circuit Courts in the counties of McNairy, Hardeman, Shelby, Tipton, and Fayette whose Circuit Court would meet on the third Monday in January, May, and September.
10. Acts of 1845-46, Chapter 21, rearranged the terms of the Circuit Courts in Shelby, Tipton, Hardeman, and Fayette counties where the Court would convene on the second Monday in February, June, and October of each year.
11. Acts of 1857-58, Chapter 98, was a complete revision of the lower Circuit Court system of the State which was divided into sixteen Judicial Circuits. The 15th Judicial Circuit contained the counties of Tipton, Shelby, Hardeman, and Fayette where the Court would take up the term dockets on the second Monday in February, June, and October.
12. Acts of 1867-68, Chapter 4, provided that the Circuit Court of Fayette County would be held on the second Monday of March, July, and November in Somerville.
13. Acts of 1870 (2nd Ex. Sess.), Chapter 31, divided the State into 15 regular, and one special, Judicial Circuits in this wholesale re-ordering of the lower court system of the State after the adoption of the 1870 State Constitution. The 14th Judicial Circuit was made up of the counties of Fayette, Tipton, Lauderdale, Hardeman, and the special court at Bartlett in Shelby County.
14. Acts of 1870 (2nd Ex. Sess.), Chapter 46, set up the schedule of Circuit Court terms for every county in the State of Tennessee according to Judicial Circuits. Fayette County's Circuit Court would meet on the third Monday in February, June, and October.
15. Acts of 1870, Chapter 82, provided for the Probate Judge of Shelby County to hear the Circuit Court docket at Bartlett and was therefore invested with all the power and jurisdiction to do so. The Court at Bartlett in Shelby County was moved out of the 14th Judicial Circuit and into the 15th Judicial Circuit.
16. Acts of 1881 (Ex. Sess.), Chapter 20, was the next complete revision of the lower court system of Tennessee which was separated into fourteen regular, and one special, Judicial Circuits. The 13th Judicial Circuit consisted of the counties of Hardeman, Fayette, Tipton, Lauderdale, Dyer, and Lake, and the Judge of this Circuit would hold the Chancery Court of Lake County. The Circuit Court terms in Fayette County would begin on the third Tuesday in January, May, and September.
17. Acts of 1899, Chapter 427, reorganized the entire lower judicial system of Tennessee. Fourteen Judicial Circuits were formed and the counties of Obion, Lake, Dyer, Lauderdale, Tipton, Fayette, and Weakley were all assigned to the 14th Judicial Circuit. Court terms in Fayette County would begin on the third Monday in March, July, and November.
18. Acts of 1905, Chapter 59, created the 16th Judicial Circuit, taking the counties of Hardeman, Madison, and McNairy from the 12th Judicial Circuit, and the counties of Tipton, Fayette, and Lauderdale from the 14th Judicial Circuit, and joining them together to form the 16th Judicial Circuit. Only the civil jurisdiction of the Circuit Court of Madison County was included in the transfer, the criminal jurisdiction being left in the 12th Judicial Circuit. Court terms were established for all the counties, Fayette County's Circuit Court being designated to begin on the fourth Monday in March, July, and November at Somerville. The Governor would appoint a Judge and an Attorney-General for the new Circuit to serve until the next general election when the people would elect their successors.

19. Public Acts of 1931 (2nd Ex. Sess.), Chapter 38, divided Tennessee into twenty Judicial Circuits in the last organizational Act for the Judiciary appearing in the volumes of Private Acts. The 16th Judicial Circuit contained the counties of Hardeman, McNairy, Lauderdale, Madison, Tipton, and Fayette. The Circuit Court terms would start on the fourth Monday in March, July, and November.

### **Circuit Court - Clerk**

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

1. Acts of 1903, Chapter 255, was an act which established the annual salaries of Circuit Court Clerks only and which classified them according to the population of the county in which they served. The Clerks were to file a sworn itemized statement before January 1 with the County Judge or Chairman, showing all the fees collected in the office. If the fees were less than the salary fixed for the Clerk, the County was obliged to make up the deficiency but, if the fees exceeded the salary, the Clerk could retain the excess for his own. According to census data for 1900, the Circuit Court Clerk of Fayette County would have been paid \$1,000. This Act along with several others of a similar nature eventually led to the current salary statutes under which the State presently operates.
2. Private Acts of 1919, Chapter 274, stated that females, married or single, over the age of 21, and residents of the county appointing them, were eligible to serve as a Deputy in the office of the Circuit Court Clerk with the same authority and duties as other Circuit Court Clerks. This act applied to Weakley, Rutherford, Montgomery, Greene, Giles, and Fayette Counties.
3. Private Acts of 1919, Chapter 687, provided that women over 21 years of age could serve as Deputy Clerks in the offices of the Clerks of all the Courts of Fayette County, identified by the use of the 1910 Federal Census. As deputies, they were given all the rights, privileges, powers, and obligations as other deputies.
4. Private Acts of 1927, Chapter 217, in Fayette County, set the annual salary of the Circuit Court Clerk at not less than \$1,500 per year, and, in case the fees of the office did not amount to that sum, the county was to supplement the same up to that figure on the warrant of the County Judge, or Chairman. The Clerk was required to file with the County Judge, or Chairman, a sworn, itemized statement showing the total amount of fees collected by the office, but, if the fees exceeded the salary specified, the Clerk could retain the surplus as his own.

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

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

1. Acts of 1824, Chapter 36, placed Fayette County in the 15th Solicitorial District of the State.
2. Acts of 1835-36, Chapter 28, made each Solicitorial District in the State to coincide with each Judicial Circuit having criminal jurisdiction.
3. Public Acts of 1973, Chapter 91, created the office of Assistant District Attorney General for the 16th Judicial Circuit for Fayette, Hardeman, Lauderdale, McNairy and Tipton Counties. This act has been superseded by T.C.A. 16-2-506 which entitled the counties of the 25th Judicial Circuit to four Assistant District Attorneys Generals.

### **Secretarial Assistance**

The following acts are no longer in effect but are listed here for historical purposes.

1. Public Acts of 1957, Chapter 150, stated that the compensation of the Stenographer for the Chancellor of the Ninth Chancery Division would be \$2,400 annually, payable in equal monthly installments from the State Treasury, but none of the provisions for payment which were set out in Public Acts of 1943, Chapter 125, would be affected.
2. Public Acts of 1963, Chapter 309, amended Public Acts of 1957, Chapter 150, by increasing the annual salary of the Stenographer for the Chancellor of the Ninth Chancery Division from \$2,400 to \$3,600, payable under the same terms and conditions.
3. Public Acts of 1967, Chapter 137, amended Public Acts of 1957, Chapter 150, as amended, by increasing the annual salary of the Chancellor's Stenographer from \$3,600 to \$4,800.