

Jurisdiction

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 municipal 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 MTAS website material.

Sincerely,

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Powers of Municipal Courts

In addition to their authority to hear municipal ordinance violation cases, a number of private act charters, the general law charters, and the statutes governing home rule municipal courts give city courts the same jurisdiction as sessions courts.

T.C.A. § 16-18-311, however, limits the exercise of general sessions jurisdiction if the court did not exercise that jurisdiction on May 12, 2003. This section establishes a complex procedure for granting the authority to exercise this jurisdiction.

In *Town of South Carthage v. Barrett*, 840 S.W.2d 895 (Tenn. 1992), the Tennessee Supreme Court held that municipal court judges exercising concurrent jurisdiction with a state general sessions court must meet all of the qualifications of Article VI, Section 4, of the Tennessee Constitution. Judges must be:

- elected for an eight-year term;
- thirty years old;
- a resident of the state for five years; and
- a resident of the district or circuit one year before the election.

The Supreme Court relied on the principle of the separation of judicial and legislative powers, reasoning that "judges charged with interpreting the criminal laws of this state should be elected ... to assure an independent judiciary free of the political caprice and whims of other government branches." Subject to the push and pull of a city council, an unelected municipal court judge exercising criminal jurisdiction did not meet the court's standard for independence.

The following points illustrate Tennessee's approach for municipal courts with concurrent jurisdiction:

- There is an option for an appointed or elected judge under the general law mayor-aldermanic charter (T.C.A. § 6-4-301, *See also*, T.C.A. §6-4-302);
- Two-thirds of Tennessee's cities are chartered under private acts, and a large percentage of those charters grant the municipal court concurrent jurisdiction with general sessions courts and, alternatively, provide for an appointed judge;
- Several municipal courts in general law city manager-commission charter cities have been granted concurrent jurisdiction with general sessions courts (T.C.A. § 6-21-501);
- Tennessee has several home rule municipalities. T.C.A. § 16-17-102 provides that judges in home rule municipalities shall be "appointed on the nomination of the mayor and concurred in by the city council or other legislative body". The appointed judge is required to run for election in the next general election. Grants of concurrent jurisdiction also are found in many home rule charters themselves. Some home rule charters also provide for appointing the municipal judge. T.C.A. § 16-17-102 does not specifically provide for a judicial term of eight years or require that the municipal judge meet the other constitutional qualifications of Article VI, Section 4;
- T.C.A. §§ 16-18-201, *et seq.*, authorize municipalities to provide, by ordinance, for the election of municipal court judges; however, these statutory provisions do not grant municipal court judges concurrent jurisdiction with general sessions courts; and
- T.C.A. § 16-18-311 implements a complex procedure for granting the authority to exercise general sessions jurisdiction after May 12, 2003.

In *City of White House v. Whitley*, 979 S.W.2d 262, (Tenn. 1998) the Supreme Court was asked whether Article I, Section 8, of the Tennessee Constitution prevents non-attorney judges from presiding over trials of criminal offenses punishable by incarceration. The court held that individuals facing such charges are constitutionally entitled to an attorney judge in order to guarantee that their due process protections are met. Therefore, non-attorney judges who exercise concurrent general sessions court jurisdiction may not preside over criminal cases if the punishment includes jail.

It seems fairly clear that a municipal court judge exercising concurrent jurisdiction must be a resident of the city in which he or she presides over court.

In courts where cases of state law violations may be prosecuted, the district attorney general acts as prosecutor. T.C.A. § 8-7-103.

Courts with General Sessions Jurisdiction

T.C.A. § 16-1-117(a)(3) and (4) require municipal courts with general sessions jurisdiction to report data to the Administrative Office of the Courts on all criminal and civil cases. Caseload data must be reported once a month and must show all cases filed and disposed of in a month by the 15th of the following month.

The Administrative Office of the Courts utilizes an automated court information system to ensure that comparable data will be reported with respect to municipal courts with general sessions jurisdiction. Each system shall use the Tennessee code citation on each criminal charge and have the capability of using this information to classify the type and class of each

charge.

Credits

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