



Administrative Policies
And Procedures
Tennessee Supreme Court
Administrative Office of the Courts

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Supersedes:

Approved by: Chief Justice Frank F. Drowota, III and Cornelia A. Clark, Director

Subject: Interchange, designation, and substitution of judges of general sessions and juvenile courts

- I. Authority: Tenn. Code Ann. §§ 16-15-209, 17-2-208 and applicable statutes.
- II. Purpose: To ensure uniformity of the procedures used in the interchange and designation of judges of courts of general sessions and juvenile courts.
- III. Application: General Sessions and juvenile court judges.
- IV. Definitions: None.
- V. Policy
 - A. Interchange generally: Notwithstanding any other provision of law to the contrary, judges of courts of general sessions and juvenile courts may interchange with each other whenever causes exist making an interchange necessary or for mutual convenience. The interchanging judge shall not be required to be a resident of the county as the judge for whom he or she is sitting, but must otherwise possess the same qualifications. *Tenn. Code Ann. § 17-2-208.*

Interchange in certain divorce actions: In counties having a population of over 700,000, general sessions judges may sit by interchange as a circuit court judge or chancellor for the exclusive purpose of hearing and deciding uncontested and irreconcilable differences in divorce cases. *Tenn. Code Ann. § 17-2-209(a).*

- B. Designation generally: Whenever litigation in general sessions or juvenile courts becomes congested or delay in the disposition becomes imminent for any reason or upon request by any judge, the Chief Justice shall assign a retired or regular judge to assist in the removal of such congestion or delay. Such assignment shall not materially interfere with the performance of the assigned judge's official duties.
 - C. Any judge has the discretion to request another judge to assist in the removal of congestion or delay if the original judge becomes aware of the need for such assistance before the Chief Justice makes the assignment.

In such situations, both the requesting judge and the assigned judge may hear, try and dispose of cases in such court at the same time, both signing their respective minutes. *Tenn. Code Ann. § 17-2-109.*

- D. Designation and Use of Referees/Appointed Officers of the Judicial System: In addition to the statutory provisions governing the referee and clerk and master positions, the referee or clerk and master can be appointed as a full-time officer of the judicial system in accordance with Tenn. Code Ann. § 16-15-209(g) and also can be used as a lawyer substitute judge in accordance with Tenn. Code Ann. §16-15-209(a)(4).

Such appointed judicial officers shall serve as a special judge only in matters related to their duties as judicial officers. Designation of referees or clerks and masters by the Chief Justice is not required in such cases.

- E. Immunity for Judges: Any judge or lawyer specially appointed pursuant to Tenn. Code Ann. § 17-2-109 or Tenn. Code Ann. § 16-15-209 or by interchange shall have the same immunity as the judge for whom the judge or lawyer is sitting. The county where the special judge or lawyer is sitting shall be required to provide the defense. *Tenn. Code Ann. § 16-1-114.*
- F. Reimbursement: A judge assigned to a court outside their county of residence shall receive reimbursement for travel expenses from the county requesting assistance in accordance with the judicial travel regulations of the supreme court. *Tenn. Code Ann. § 16-15-209(b).*
- G. Compensation: The county legislative body may authorize payment of compensation to a special lawyer judge. The amount of compensation shall not exceed that of other judges of the general sessions court or juvenile court for such county. *Tenn. Code Ann. § 16-15-209(c).*
- H. Oaths: Every special judge, before entering on the duties of the judge's appointment, shall take an oath before the clerk of the court and file such oath with the clerk. *Tenn. Code Ann. § 17-2-120.*
- I. County with population of over 800,000 - See also Tenn. Code Ann. § 16-15-209(e) through (h) for provisions regarding adopted resolutions and special judge provisions in any county having a population in excess of 800,000.

VI. Procedures:

- A. If a special judge is necessary, the judge shall interchange with another judge within the county. If a judge cannot serve by interchange, a judge may seek to find any current, former, or retired

judge who will sit as special judge. Such designation shall be made by the chief justice. The judge should contact the Administrative Office of the Courts to process the designation order.

- B. In a county with only one (1) general sessions judge or juvenile court judge, the judge shall seek to find any current, former, or retired judge who will sit as a special judge. The special judge shall serve by designation of the chief justice. The judge should contact the Administrative Office of the Courts to process the designation order.
 - C. If a judge is disqualified by reason of a conflict of interest or other circumstance where the judge's impartiality in choosing another judge to sit as special judge could be questioned, the judge should apply to the Administrative Office of the Courts for assistance in finding a judge to sit by interchange or designation. *See Supreme Court Rule 10, Canon 3(E) regarding disqualification.*
 - D. If the judge is unable to secure a judge under (1) or (2), or if the circumstances outlined in (3) exist, the judge may apply to the Administrative Office of the Courts for assistance in finding a judge to sit by designation as a special judge. See Tenn. Code Ann. §16-15-209(a)(1)-(3).
 - E. The Administrative Office of the Courts, absent special circumstances, cannot secure a replacement when the regular judge's absence results from:
 - 1. attendance at a conference, educational seminar or speaking engagement;
 - 2. attendance at an annually scheduled state or local bar association meeting;
 - 3. scheduled vacation; or
 - 4. regularly scheduled administrative days or weeks in which the judge rotates off the bench to handle administrative matters.
- VII. Alternate Procedure - Lawyer as Special Judge: Only after exhausting the procedures set forth in Section VI, a judge may appoint a lawyer from a list, on a rotating basis, of lawyers that have been previously approved by the judges of the county who are constitutionally qualified, in good standing and possess sufficient experience and expertise. A lawyer appointed is subject to the following limitations:
- A. The lawyer may preside only if the parties and counsel are notified that the duly elected or appointed judge will be absent and that a practicing lawyer will serve as a special judge.
 - B. The parties choose to proceed and not to continue the case pending return of the duly elected or appointed judge; and

C. The lawyer shall not approve the payment of attorney's fees involving an indigent defense claim or any discretionary fees. A special judge shall approve fees only when the exact amount is set by statute. *Tenn. Code Ann. §16-15-209(a)(4)*.

During the month of September each year, the clerk of the court shall prepare, for each division of court, an annual report for the preceding twelve (12) months, setting out the total number of sessions of court presided over by a special judge, or by a judge sitting by interchange. The clerk shall also report the total number of sessions of court that are scheduled in each division of court for that period. The orders and reports required by this subdivision shall be filed, and kept open for public inspection, by the clerk of the court. The clerk of the court shall promptly file a copy of such annual report with the Administrative Office of the Courts.

VIII. Standing Order: A general sessions or juvenile court judge may issue and amend, upon showing a change in circumstances, a standing order regarding compliance with the above procedures. Such order may include a finding regarding whether a current, former or retired judge will sit by mutual agreement, whether the Administrative Office of the Courts can comply with emergency requests for substitute judges, and the list of lawyers to be contacted on a rotating basis. *See Tenn. Code Ann. § 16-15-209(d)*.